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Committee on the Human Rights of Parliamentarians

Report on the mission to Mongolia
11 - 13 September 2017

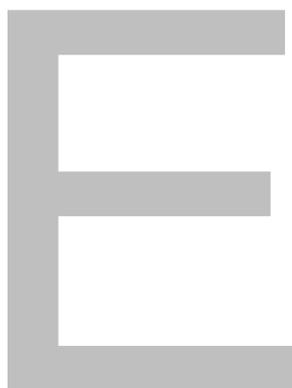
MNG01 - Zorig Sanjasuuren

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#IPU138

Mongolia



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Executive Summary

From 11 to 13 September 2017, a delegation of the Committee on the Human Rights of Parliamentarians (hereinafter “the Committee”) conducted a mission to Mongolia to obtain further information on the recently concluded judicial proceedings that led to the final conviction of the three accused for the 1998 assassination of Mr. Zorig Sanjasuuren (“Mr. Zorig”). The trial was held behind closed doors on the basis of classified evidence.

Given the persistent secrecy and political resistance to declassify the case, the delegation concluded that serious violations of international fair trial standards had taken place. It also found that intimidation and pressure was being exercised against all persons taking an interest in the case. The delegation deeply regretted that prior IPU recommendations had not been implemented by the Mongolian authorities.

The delegation came to the conclusion that the three convicted persons appeared to have been framed by the intelligence services and pressured to make false confessions. The delegation seriously questioned their involvement in the crime taking into account suspicious inconsistencies and exculpatory evidence brought to its attention. The delegation also noted that the mastermind(s) remained unidentified and that serious due process issues persisted in relation to the ongoing investigation. The delegation was deeply worried that the recent developments were aimed at covering up for the real culprits of the assassination (direct perpetrators, organizer(s) and mastermind(s)).

The delegation called upon the Mongolian authorities to declassify the case and conduct, without further delay, a fair and open retrial before an independent and impartial court in the presence of international and domestic observers. The delegation strongly believes that justice must be provided to Mr. Zorig’s family, as well as to the convicted persons and their families, to avoid a serious miscarriage of justice.

Given the profound distrust that has developed over the years, this is a crucial test of the ability of the Mongolian judiciary to demonstrate that it operates under the rule of law and has not become hostage to political and commercial interests. A proactive and impartial exercise of the oversight functions of the State Great Hural is also needed if there is to be any progress in the case.

Geneva, 17 January 2018

A. Origin and conduct of the mission

(i) Origin of the mission

1. At the 136th IPU Assembly (Dhaka, April 2017), the Governing Council endorsed the wish of the Committee to conduct a new mission to Mongolia. The purpose of the mission was to obtain more information on recent developments. It was also an opportunity to discuss the Committee's concerns with all relevant Mongolian authorities in order to facilitate progress in the case in strict compliance with international human rights standards. Issues of particular concern included: the persisting classification of the case; the lack of due process in recent judicial proceedings; a new, secret investigation reportedly initiated against suspected organizers and instigators of the assassination; State inaction in relation to the alleged torture of suspects and witnesses; the apparent lack/weakness of parliamentary oversight; and the need for a legislative review of state secret laws and regulations to bring them in line with international standards of fair trials and access to information.

2. The Mongolian authorities confirmed their agreement in writing on 17 May 2017. Given the presidential elections scheduled in June and the official holidays in July and August in Mongolia, the mission took place from 11 to 13 September 2017.

(ii) Conduct of the mission

3. The mission took place from 11 to 13 September 2017. It was led by Ms. Fawzia Koofi, President of the Committee (Afghanistan) and Mr. Ali Alaradi, Committee member (Bahrain). They were assisted by Ms. Gaëlle Laroque from the IPU Secretariat.

4. The delegation sincerely thanks the Mongolian authorities for their cooperation and engagement, in particular the then Vice-Chairman of the State Great Hural (recently appointed Minister of Justice) as well as the President of Mongolia and the Deputy General Prosecutor. It also thanks the Head of the National Intelligence Agency for accepting to meet with the IPU delegation for the first time. The delegation also wishes to extend its gratitude to the Chairman of the Human Rights Subcommittee for hosting a dinner with the delegation, and, to the Secretariat of the Mongolian IPU Group for its logistical assistance, which ensured that the visit went smoothly.

5. The delegation deeply regrets that it was not granted access to the three individuals convicted of Mr. Zorig's assassination despite repeated requests to that end. It undertook great efforts before and during its stay in Ulaanbaatar to secure the authorization to visit the detainees. However, responses provided were legalistic and the delegation observed a clear lack of will to allow access to the detainees. The delegation was further shocked that representatives of the judiciary denied its request for a meeting with judges of the Supreme Court on the grounds that such a meeting would be an interference with the independence of the judiciary. The delegation considers that these grounds make no sense given its mandate and taking into consideration that a final court decision on the case had already been delivered at the time of its mission. This regretfully deprived the delegation of an opportunity to engage in a dialogue with any representative of the judicial branch whereas it had primary responsibility over the case. As a general comment, the delegation concluded that a very broad definition of interference with the administration of justice and a legalistic approach were conveniently used by the judicial and law enforcement authorities to deliberately deny access to the delegation to helpful information.

6. The delegation met with the following authorities:

- Parliamentary authorities
- Mr. Miyegombo Enkhbold, Chairman of the State Great Hural;
- Mr. Tsend Nyamdorj, Vice-Chairman of the State Great Hural, Chairman of the Mongolian Inter-Parliamentary Group;
- Mr. Sukhbaatar Batbold, Chairman of the Special Oversight Subcommittee; and
- Mr. S. Batbold, Mr. N. Enkhbold and Mr. D.Tsogtbaatar, members of the Subcommittee;
- Mr. Damdin Tsogtbaatar, Chairman of the Human Rights Subcommittee; Mr. J. Batzandan, member of the Subcommittee; and
- Mr. Lundeetsantsan, MP involved in the constitutional review process.

- Executive authorities¹
 - Mr. Battulga Khaltmaa, President of Mongolia; and
 - Mr. S. Byambatsogt, Minister of Justice and Home Affairs.
 - Judicial authorities
 - Mr. G. Erdenebat, Deputy General Prosecutor and former Head of the investigative working group.
 - Intelligence services
 - Mr. B. Khurts, Head of the National Intelligence Agency.
 - National Human Rights Commission
 - Mr. J. Byambadorj, Chairman of the National Human Rights Commission; and
 - Mr. T. Ikhtamir, Head of the Complaints and Inquiry Division.
 - Political parties/Parliamentary Political Caucuses and other MPs
 - Mr. L. Bold, MP, representative of the Democratic Party;² and
 - Mr. O. Baasankhu, MP, lawyer.
 - Family members and legal counsel of Mr. Zorig
 - Ms. Oyun Sanjasuuren, Mr. Zorig's sister; and
 - Ms. L. Enkhsaikhan, lawyer of the family.
 - Family members of the convicted individuals
 - The delegation met with several relatives of Ms. Chimgee and of Mr. Sodnomdarjaa.³
 - United Nations and Foreign Embassies
 - The delegation held informal briefings on its mission with the United Nations Resident Coordinator's Office and representatives of foreign embassies present in Ulaanbaatar.
 - Human Rights NGO:
 - The delegation met with Amnesty International Mongolia.
7. The delegation also held additional informal meetings with a number of individuals who have requested that their identity remains confidential for security reasons.

B. Outline of the case and the IPU follow up action

(i) Outline of the case

8. Regarded by many as the father of the democratic movement in Mongolia in the 1990s, Mr. Zorig Sanjasuuren ("Mr. Zorig"), a member of parliament and acting Minister of Infrastructure at the time, was assassinated on 2 October 1998. At the time, Mongolia was enduring a period of political upheaval after the breakdown of the coalition government. Negotiations were in place to select the next Prime Minister. Mr. Zorig was being considered as a candidate for the post on the day he was killed. Fears that the assassination may have been politically motivated have been expressed since that time, although other scenarios were also explored and never formally ruled out.

¹ The Parliament voted a reshuffling of the government on the eve of the mission. As a result, it was no longer possible nor relevant for the delegation to meet with the outgoing Prime Minister.

² The joint official meeting scheduled with the chairpersons of the two main political parties in parliament, Mr. D. Khayankhyarvaa, Chairperson of Mongolian People's Party caucus, and Mr. L. Bold, representative of the Democratic Party, was cancelled after Mr. D. Khayankhyarvaa excused himself. The delegation held an informal meeting with Mr. L. Bold.

³ The delegation decided to withhold their names for security reasons given the threats and harassment they have been exposed to.

(ii) 2000 - 2015 IPU follow up action

9. The case has been before the IPU Committee on the Human Rights of Parliamentarians since October 2000. Over 50 IPU decisions have been adopted on the case. The Committee and the Governing Council have continuously called on the Mongolian authorities to ensure that the murder of Mr. Zorig would not go unpunished. They have also encouraged the Mongolian authorities to actively pursue the investigation and have facilitated technical forensic assistance.

10. A first IPU fact-finding mission to Mongolia took place in 2001. It found that the initial investigation had been entirely deficient (contamination of the crime scene, detention and alleged torture of the only eye witness, etc.). At that time, following a change of the majority in power, the Mongolian authorities were still optimistic. They stated that the evidence was abundant and many lines of inquiry were still being verified. A judicial investigative working group was established. A parliamentary Committee was also mandated to monitor, support and exercise oversight over the investigation. The Mongolian authorities have repeatedly affirmed that every effort was being made to identify the murderers and bring them to justice.

11. However, little progress was reported between 2001 and 2015 despite extensive efforts made by the IPU – including by a number of IPU Members to facilitate forensic assistance. Over the years, the Mongolian authorities shared little information. By 2015, no one had been held accountable and the investigation remained entirely shrouded in secrecy. The case file was considered a “state secret” and was handled primarily by the intelligence services.

(iii) 2015 mission

12. In September 2015, the Committee mandated a delegation to return to Mongolia to assess the situation and to promote dialogue and progress. The main findings of the mission were that the murder was still widely believed to have been a political assassination that was covered up. The delegation could not exclude that political interference was one of the factors accounting for the lack of results in the investigation. It concluded that only tangible progress and transparency in the investigation could effectively demonstrate that there was still a strong political will in Mongolia to identify Mr. Zorig’s killer(s). The IPU considered that renewed impetus in the investigation was urgently needed. Increased transparency and regular public communication on the investigation, with the IPU and with Mr. Zorig’s relatives, but also with the Mongolian people, were also seen as essential to restore confidence in the undertaken investigative efforts.

13. The IPU Governing Council subsequently repeatedly called on the Mongolian authorities to redouble their efforts to solve the case, as well as to declassify it and to communicate publicly on it so as to boost public confidence that appropriate action was being taken by the authorities. It also urged the State Great Hural to continue playing a proactive monitoring role.

(iv) Subsequent developments

14. Between 2015 and 2017, no progress was made by the Mongolian authorities to declassify the case or boost public confidence that justice was being done. However, suspects were arrested and detained. They were allegedly tortured to admit their involvement in the assassination. One of them was Ms. Banzragch Bulgan (“Ms. Bulgan”), Mr. Zorig’s widow and the only eye-witness of the crime. She was held in solitary confinement, deprived of medical care, and detained in conditions amounting to torture. The charges against her were eventually dropped and she was released. Nevertheless, she is prevented from travelling abroad and is being kept under close surveillance without any apparent legal basis.

15. On 27 December 2016, the three main accused (Mr. Amgalanbaatar, Ms. Chimgee and Mr. Sodnomdarjaa) were convicted to prison terms of 23 to 25 years for Mr. Zorig’s murder. The sentences were confirmed following expedited trials before the Appeals Court and the Supreme Court on 14 March and 4 August 2017. No further information was provided on the identification of the mastermind(s) of the assassination.

16. At the 136th IPU Assembly (Dhaka, April 2017), the Governing Council expressed deep concern and pointed out that neither the parliamentary authorities, nor Mr. Zorig’s family or the Mongolian people, considered that justice had been rendered in the recent trial proceedings. It

concluded that they had violated domestic and international fair-trial standards and had further undermined the legitimacy and integrity of the whole investigative process. The Governing Council reaffirmed its prior concerns about the politicization of the case given the sudden rush in the proceedings following almost 20 years of apparent inertia in the investigative process and their coincidence with a major change in political power following the 2016 parliamentary elections and the fast-approaching presidential elections of June 2017. The Governing Council renewed its prior calls for declassification and for a public retrial.

C. Information gathered during the mission

(i) Lack of fair trial

17. The trials at all three levels of instances took place behind closed doors. Requests for public hearings made by the defendants and the civil party's lawyers were systematically denied on the grounds that the case was classified. After a very brief hearing, the Supreme Court issued a final verdict on 4 August 2017. The lengthy sentences against the three persons convicted were confirmed and only reduced by a couple of years. The IPU was not informed of this development in advance of the mission.

18. The final verdict has not been made available to anyone. The delegation has not been able to obtain a copy of it or any information on the grounds underpinning it (or on those underpinning the lower courts' prior decisions). At the time of the mission, none of the parties had received the court decision, despite over one month having passed since the verdict.

19. The Mongolian authorities and other interlocutors the delegation met with confirmed the above. The delegation took due note of the positions of the Deputy General Prosecutor and of the Head of the National Intelligence Agency. They stated that the work of the investigators was denigrated for political motives in order to discredit the proceedings, obstruct justice and ensure persisting impunity for the culprits. In their opinion, the investigations and the court proceedings had been conducted independently and had respected fully the laws and applicable procedures of Mongolia. Due process should not be an issue of concern, in their opinion, as the courts should be trusted to have done their job well. They provided no detailed information or supporting documentation to back their assertions and only asked the delegation to trust them. The delegation noted that the parties to the case, the families and all other persons with an interest in the case complained that the only official response they received to their complaints and expressions of concern was that "the judiciary was independent and should be trusted".

20. The delegation was told that Mr. Zorig's family had been able to access the prosecution evidence between September and December 2016 after the investigation was concluded and before the first instance trial. The delegation was also informed (but could not verify) that defence counsel for the three convicted persons had also gained access to the case file at that time. However, owing to the classification of the entire case file, the parties and their legal representatives were only granted access to the prosecution evidence and not to the "secret evidence" gathered by the intelligence services. Furthermore, in order to consult the prosecution evidence, they were required to sign non-disclosure agreements. These agreements prevented them from sharing any information or opinion about the case file, the trial proceedings or the grounds for court decisions. If they were to do so they could be charged, arrested and convicted for disclosing State secrets to foreign nationals. The lawyers were not even allowed to share information with their own clients on the proceedings or their defence strategies. They were also not allowed to share their views on the proceedings with the media. This explains why the delegation was not able to obtain significant information from the parties' lawyers who, it seems, were further significantly pressured.

21. Regarding the conduct of the trials, the delegation was told that the legal representatives were allowed to examine the accused. Nevertheless, the delegation failed to understand how they could do so in an efficient manner without first having access to the full evidence. Furthermore, the only eyewitness, Ms. Bulgan, was not summoned to court to testify although she was reportedly willing to do so. The Deputy General Prosecutor told the delegation that her testimony could not be used as she was considered a suspect. However, charges against her had been dismissed and she remained the only eyewitness. Under these circumstances, the delegation failed to understand why the court did not invite her to appear.

22. The delegation could not fail to observe that none of its interlocutors appeared convinced by the decisions of the courts. The general feeling was that, if strong evidence had been available, the hearings would then have been open and public, as would be expected in a properly functioning judicial system in any democratic country and, as was the usual practice in most ordinary cases. No one could therefore exclude that the three persons convicted might be innocent and paying for others. In these circumstances, given the high risk of a miscarriage of justice, most interlocutors stated that they felt that it was important that the case file be made public and the deficiencies be rectified. The timing of the trials, and the fact that they were rushed before the elections, also raised concerns although the delegation was told by the Deputy General Prosecutor, that the timing had been dictated by the code of criminal procedure which allowed for a maximum of two years of pretrial detention. If the accused had not been convicted, they would have been released by mid-2017.

23. Finally, the delegation observed that the case came against a backdrop of crisis given increasingly more frequent reports of political interference in the judicial and law enforcement system during the past few years in relation to several corruption scandals and the judicial appointment system as enshrined in the Constitution which was up for being changed as part of the ongoing constitutional reform process. This was a new concern that was not as prevalent during the 2015 mission.

(ii) Classification of evidence

24. The Deputy General Prosecutor and the Head of the National Intelligence Agency asserted that the confidentiality regime was in line with the rules applicable to top secret classification under Mongolian laws and was therefore fully legal.

25. However, the grounds and procedure of classification could not be entirely clarified by the delegation. The case was originally classified as a "State Secret" due to the public functions occupied by Mr. Zorig at the time of his assassination and to the subsequent charges of political assassination. However, the three accused were convicted for ordinary murder and not for political assassination (in the absence of identified masterminds). During its mission, the delegation was told by the relevant authorities that most of the evidence had remained classified, having been gathered by intelligence officers during undercover operations. The delegation was also told that the continuing secrecy was related to the outstanding ongoing investigation aimed at identifying the mastermind(s).

26. The delegation found that there was apparently no official classification decision as such and no legal avenues available to citizens affected by it to challenge it. The delegation was informed that the decision had not been made by any senior authority but by an expert of the intelligence services on the grounds that the case file included bits and pieces of classified information. The Vice-Chairman of the State Great Hural indicated that the grounds on which the court had ruled that it was not possible to hold a public trial was that the 220-page judicial file included five pages of information classified as top secret. Other interlocutors told the delegation that two to three per cent of the 13,000 pages of the judicial file was classified. On account of these bits and pieces of classified information, the whole file and case was entirely closed to the public.

27. The secret evidence was never made accessible to the Prosecutor's Office or to the legal counsel at any stage of the proceedings. It was therefore not subject to cross-examination or questioning of any kind. The delegation was told by the Head of the National Intelligence Agency and by the Deputy General Prosecutor that such evidence was provided exclusively to the Supreme Court judges, who reviewed it carefully, an affirmation that the delegation was not able to verify, since the Supreme Court refused to meet with the delegation. Consequently, the Supreme Court's decision of 4 August 2017 has been kept secret.

28. The delegation concluded that this evidence could therefore not have been challenged in court by anyone. For this very reason, any issue related to evidence obtained by means of torture, mistreatment and pressure in detention by intelligence officers could also not have been raised in court in any manner. The delegation further observed that even if the Supreme Court had been willing to verify the authenticity and strength of the incriminatory evidence of its own initiative, it appeared unlikely that it would have been able to do so thoroughly given the wide scope of secrecy surrounding all intelligence activities and the culture of impunity that appears to prevail in that sector. The Supreme

Court may for example have come across a signed confession included in the case file but would not have had access to the information as to the manner in which it was obtained, or by who it was obtained, etc., or to any exculpatory evidence pointing to the possibility that the confession may have been extorted through unacceptable means. The delegation took note that the authorities had never alluded to any exculpatory evidence despite the obligation to investigate impartially all evidence pointing to the guilt, but also to the innocence, of suspects.

29. The delegation reached the conclusion that the decision to classify the entirety of the case file and to close the case to the public was not in line with the Constitution and laws of Mongolia or with international standards. It found that it was a disproportionate decision that was unnecessary or supported by legal provisions. The right of the people to know the truth and to have access to information and the right to a fair trial should have been balanced against the necessity to keep the investigation on the mastermind(s) and some pieces of evidence confidential. However, nothing indicates that such a balancing exercise was ever conducted. For this reason, the delegation is of the view that the State Secret Law was not implemented appropriately. The delegation also reaffirmed the Committee's prior findings according to which the classification and declassification procedures pursuant to the State Secret Law were vague and failed to include any review mechanism or checks and balances that would ensure they did not infringe on the fundamental human rights enshrined in the Constitution of Mongolia. The delegation was told that the State Secret Law had just been amended and was given a copy of the amendment but no English translation. The delegation has therefore been unable to assess the content of the amendment.

(iii) Use of torture and corruption to extort confessions

30. Before and during the mission, the delegation received recurrent and credible reports about the use of torture and corruption to divert the course of justice in this case. It found that such reports were not seriously addressed by the judicial authorities through independent, credible and transparent procedures. The delegation was simply told, and asked to believe, that there was no truth to those reports. The delegation raised this issue with most persons it met, cross-checked their responses and looked into the existing legal framework as well as recommendations made by United Nations Human Rights mechanisms.⁴ It also reviewed the archives of the case regarding past occurrences of similar allegations.

31. The delegation gathered the following information from family members, individual MPs, NGOs and journalists about the three individuals who were found guilty of assassinating Mr. Zorig. It was unable to verify if this information was properly considered by the investigators and the courts given the lack of access to the files and court decisions.

32. All three suspects were very young at the time of the assassination and lived in a poor rural district of Erdenet. They had little education, no prior knowledge of or involvement in politics. They had never been to Ulaanbaatar at the time. With the exception of Mr. Amgalanbaatar, they had no criminal antecedents.

- Mr. Amgalanbaatar was 16 at the time of the assassination. He lived with a foster family, had dropped out of school and was jobless. He was a neighbour of Mr. Sodnomdarjaa and a relative of Ms. Chimgee.
- Mr. Sodnomdarjaa was a few years older. He was a rural worker (a herder and a farmer) in the countryside. He was Mr. Amgalanbaatar's neighbour and they had known each other for a long time.
- Ms. Chimgee was a cook. She had young children who she was nursing.

33. It is unclear when the names of Mr. Sodnomdarjaa and Ms. Chimgee appeared in the investigation. However, the succession of events appears to be as follows: Mr. Amgalanbaatar was detained, convicted and sentenced to death for murdering a taxi driver. After about eight years in detention, he suddenly gave a statement to intelligence officers according to which he admitted to killing

⁴ In particular the recent Concluding Observations on the sixth periodic report of Mongolia to the United Nations Human Rights Committee, 22 August 2017, CCPR/C/MNG/CO/6, paras 20-26 and 31-37 and repeated calls for the establishment of a national preventive mechanism on torture and the re-establishment of an independent complaints mechanism against law enforcement officials accused of torture and mistreatment in line with Mongolia's international obligations under the Convention against Torture.

Mr. Zorig with other persons. His sentence was commuted to 25 years of prison. He reportedly gave similar statements admitting guilt and naming people in many other criminal cases. He had a reputation of being used by law enforcement officers to convict other people. He was desperate to obtain a further sentence reduction and to get out of prison and would admit to anything. In the other criminal cases, it appears that his statements were not considered reliable and credible. It was initially no different in the Zorig case. Therefore, at that time, he had not been charged for the Zorig assassination until a sudden unexplained turn of events in 2015 when Mr. Sodnomdarjaa and Ms. Chimgee were arrested on the basis of Mr. Amgalanbaatar's prior confession. The delegation understood that most of the evidence used to convict the three individuals was linked back to classified evidence that included essentially Mr. Amgalanbaatar's initial statement. However, this could not be corroborated.

34. The delegation was told that Mr. Sodnomdarjaa and Ms. Chimgee were framed by intelligence officers on the basis of Mr. Amgalanbaatar's false confession and that there were many inconsistencies and facts that did not make any sense. Given the profiles of these two persons, no motive could be identified by the delegation to justify their involvement in the assassination. The delegation took note of what it was told and of opinions according to which the evidence had allegedly been "cooked up" as part of a political frame up that had supposedly started around 2014 following the appointment of new investigative officials.

35. Among the numerous facts and allegations that raise significant questions apparently left unanswered by the proceedings are the following:

- At some point in time, Mr. Amgalanbaatar started sending text messages from prison to Mr. Sodnomdarjaa and Ms. Chimgee. He first asked them to visit him and bring him money. Then he started threatening them and their family members and mentioning Zorig's assassination on a regular basis. Despite complaints, nothing was done to investigate and put an end to this practice. Considering that Mr. Amgalanbaatar barely knew how to write or read, it is actually believed that intelligence officers were in possession of his phone and were behind the threats. Attempts made by relatives to localize the phone also reportedly showed that it was located in Erdenet and not in the prison.
- Several strange accidents took place before Mr. Sodnomdarjaa's and Ms. Chimgee's arrest that may have been prior attempts to frame them on other grounds. Mr. Sodnomdarjaa was provoked into a fight by an undercover intelligence officer in a market earlier in 2015; a corpse was dropped in front of Ms. Chimgee's house while she was hospitalized etc. Mr. Sodnomdarjaa and Ms. Chimgee were also accused of destroying evidence of the assassination on the basis of a fire that burnt a house in the neighbourhood eight years after the assassination even though an official police investigation apparently concluded that it was an accident caused by electrical deficiencies. The delegation was further alerted to the fact that the Erdenet police was notoriously known to be under the control of oligarchic groups and that it was not independent.
- Mr. Sodnomdarjaa and Ms. Chimgee were arrested violently, without warrants or any other prior notice, in August 2015 by masked intelligence officers. Their houses were fully searched and ransacked and their families were not given any information. Their families spent days searching for them and were initially not granted access to them in detention.
- Mr. Sodnomdarjaa and Ms. Chimgee were both intensely pressured by intelligence officers to admit responsibility in the crime and to sign statements to that end.
 - When Mr. Sodnomdarjaa was arrested, a special cell was prepared for him. An intelligence officer reportedly kept coming to his cell to tell him to confess the crime or he would not see his children again. The intelligence officer also brought Mr. Amgalanbaatar to the cell and Mr. Sodnomdarjaa was repeatedly beaten. During interrogations, Mr. Sodnomdarjaa was also reportedly given drugs and his health has deteriorated since. On one occasion, the intelligence officer took Mr. Sodnomdarjaa to an apartment in Ulaanbaatar and told him that it was Zorig's and asked him to describe it.
 - Ms. Chimgee has also been under constant pressure to confess the crime. Mr. Amgalanbaatar was allowed into her cell at night and threatened her verbally. The family members described to the delegation extensive examples of threats, intimidation and pressure they faced and continued to face. Ms. Chimgee's daughter

died in a suspicious(?) car accident in August 2016⁵ and the family believe that it was no coincidence albeit no evidence. Family members informed the delegation that it was intelligence officers who announced the death to Ms. Chimgee before the family was able to do so and that she was told that it would not have happened had she signed a confession. When she asked for authorization to attend her daughter's funeral, she was allegedly again pressured to confess the crime.

- Mr. Sodnomdarjaa and Ms. Chimgee are currently detained far from their homes and families in a prison that their families consider violent. They are detained in solitary confinement with light and video recording 24 hours a day. Mr. Sodnomdarjaa is allegedly chained inside his cell. Although he is of poor health he is denied medical treatment. Family members are allowed to visit him only every three months. His family wrote 19 complaints to the authorities but received no satisfactory responses. Ms. Chimgee's family also has limited access to her as visits are allowed only every 45 days.
- Some evidence was broadcasted on national television, including a video where Mr. Sodnomdarjaa apparently explained how he committed the assassination. The delegation was told that the video was full of inconsistencies, referring, among others, to the use of cell phones (which did not exist in 1998). Family members are convinced that he was coerced into recording the video. Ms. Chimgee on her side has always denied any participation in the crime despite alleged relentless pressure. The sketch of the suspects of the assassination drawn up on the basis of Ms. Bulgan's initial testimony was also reportedly recently redrawn. A new sketch was broadcasted in the media. It is inconsistent with the original sketch as regards the respective size and ages of the male and female suspects described by Ms. Bulgan, the only eyewitness, but it matches the profiles of Mr. Sodnomdarjaa and Ms. Chimgee.

36. The delegation met with another individual who had been detained for months as a suspected organizer. He had a similar story and the treatment he suffered in detention and since his release was comparable to Ms. Bulgan's. The delegation can but see a clear pattern in that respect as discussions held throughout its mission have confirmed that the above is highly unusual in comparison to ordinary criminal investigations and conditions of detention in Mongolia. In the delegation's view, there are therefore many unanswered questions raising serious doubts on the guilt of the three convicted persons and on the integrity of the court proceedings.

37. The Deputy General Prosecutor, the Head of the National Intelligence Agency and the Minister of Justice affirmed that the reports were unfounded and that the suspects were treated in the same manner as all suspects and detainees in Mongolia. They were allowed the same access to defence lawyers and family visits. In relation to the 24-hour video recording and lighting in the cells, according to them, this was the ordinary standard in these detention facilities. It was to ensure that the detainees would not commit suicide. They confirmed that complaints about torture had been received and had been investigated by relevant authorities but had not been substantiated. The delegation was unable to obtain any details on these investigations or supporting information demonstrating that they had effectively taken place (and had not been directed or conducted by the very officials accused of abusing their powers).

38. The National Human Rights Commission was authorized to visit the suspects in detention. Its Chairperson told the delegation that they intervened to address "small" violations of the rights of the detainees, such as to facilitate access for the lawyers and family members. One of the issues was that the families had not respected the procedure to be granted access but went directly to the media to complain. A few MPs who were also allowed to visit them told the delegation that they had only looked at their conditions of detention.

39. The delegation came to the conclusion that the three convicted persons were most likely pressured by the intelligence services to make false confessions regarding their involvement, and the involvement of others, in the commission and organization of the crime. Given that this concern has

⁵ The car went off the road. No other car was involved. The driver survived but not the daughter of Ms. Chimgee. Family members think that he deliberately provoked the accident because he has since disappeared. The driver told the police that the daughter had taken the wheel and provoked the accident herself. The investigation was not pursued.

been raised repeatedly over the past 19 years relating to the investigation of suspects and witnesses, the delegation cannot rule out the possibility that others have suffered the same fate and that innocent people have been framed for Mr. Zorig's murder.

40. Given the above concerns, there is a high probability that much of what is constantly referred to as secret evidence was actually fabricated over the years by the intelligence services. There is no doubt that intelligence services hold the exclusive and discretionary power of deciding what to disclose to the courts and what to keep secret. Unless the case file is fully declassified, intelligence and law enforcement officers who may have committed serious abuses of power will be able to continue doing so with full impunity, in violation of the fundamental human rights of Mongolian citizens. This will prevent the truth about Mr. Zorig's assassination from ever being known. In the delegation's view, it is further urgent, that Mongolia fulfils its international obligations with regard to the establishment of strong and independent mechanisms that allow for effective accountability of law enforcement officials accused of abusing their powers. Complaints for acts of torture should always be investigated with diligence and independence and evidence obtained through such means should not be rejected by courts in line with the Convention against Torture. Appropriate and effective preventive mechanisms should also be in place.

(iv) Remaining domestic remedies and potential conflict of interest

41. The delegation noted that the sentences had become final under Mongolian law. Nevertheless, there was a possibility for the convicted persons to lodge one final appeal with the President of the Supreme Court within 30 days of receipt of the final judgment. The delegation was shocked that the verdicts had not been issued to the parties within six weeks following their delivery and was unable to find out when the Court would make the judgments available to convicted persons. The delay for appeal had therefore still been running at the time of the mission. The delegation also observed with deep concern that the judges who ruled on the case included the President of the Supreme Court, a very unusual situation which, in the delegation's view, would create a conflict of interest when he would be called upon to decide on the convicted persons' last avenue of appeal.

42. In the delegation's view, the most obvious remedy available at this stage would be a public retrial. It should allow the Prosecutor's Office and the legal counsel to access and cross-examine all classified information, as well as to examine all relevant witnesses. Such a retrial should be open to the media and to domestic and foreign observers, including to the IPU. It would require a prior declassification of the case.

43. Article 50(3) of the Constitution of Mongolia confers to the Supreme Court the power to take decisions on matters related to the protection of human rights and freedoms transferred to it by the Constitutional Court and the General Prosecutor. Due consideration could therefore also be given to lodging a complaint before the Constitutional Court on the grounds of violations of Articles 16(13) (prohibition of torture and right to liberty and safety), (14) (right to the presumption of innocence and to a fair trial) and (17) (right to seek and receive information) of the Constitution.

(v) Intimidation, pressure and fear of reprisals

44. The delegation was shocked by the level of intimidation and pressure exercised against all persons taking an interest in the case, whether directly (parties to the proceedings and their legal counsel, and possibly judicial staff and investigators) or indirectly (parliamentarians, politicians, civil society actors or ordinary citizens publicly voicing concerns about how the case has been handled or simply sharing IPU decisions with the Mongolian people). The delegation noted that some of its interlocutors withheld information out of fear of reprisals.

45. The lawyers of the three convicted persons refused to meet with the delegation, apparently for this very reason. The delegation was shocked to learn that most lawyers had allegedly refused to take on the defence of the three convicted persons after being "advised" not to do so. It noted with concern that several members of Parliament felt that it was becoming difficult for parliamentarians in Mongolia to express their opinions freely without suffering intimidation or threats in response. The Vice Chairman of the State Great Hural himself told the delegation that he had always expressed his opinion clearly on the deficiencies of the Zorig case and that he stood ready to be arrested anytime for this very reason. To the delegation's surprise, the Head of the National Intelligence Agency made no

secret of his position and told the delegation that “all people under investigation are already under our control through undercover operations. We record everything they do. This includes members of Parliament who make public statements about the case and criticize the investigation.”

46. This can in no way be considered in line with fair trial guarantees or with the right to freedom of expression of parliamentarians and of ordinary Mongolian citizens. The rights of the accused and people’s right to speak freely about the case should be fully respected. Should some legitimate limitations need to be imposed, they should be in compliance with international human rights law.

47. Finally, the delegation noted with deep concern that nowadays in Mongolia, expressions such as “you will be like the Zorig case” appear to be flourishing. They are taken to mean “you will disappear and no one will ever know who did it”. There can be no doubt for the delegation that the deficient handling of the Zorig case has created a dangerous precedent for the future of Mongolia which needs to be urgently addressed.

(vi) Outstanding investigation to identify the mastermind(s)

48. The delegation was able to clarify the following: the Zorig case has been divided into two parts/criminal cases: (i) the direct perpetrators who have now been convicted, (ii) the organizer(s) and mastermind(s) – against whom an investigation is still ongoing.

49. The investigative working group on the Zorig case that sent the first case to trial under the authority of the Deputy General Prosecutor was discharged. The delegation obtained confirmation that the outstanding investigation was the sole responsibility of the intelligence services and that it was entirely classified. None of the authorities and persons that the delegation met had any information to share on the status or progress of this investigation. Several authorities, including the Head of the National Intelligence Agency, explained that the confidentiality of the investigation was necessary because it was looking at the possible involvement of high-level politicians who were still in power.

50. The delegation noted that there was a general lack of confidence that this outstanding investigation would achieve anything. Many interlocutors told the delegation that they believed that the National Intelligence Agency was covering up the truth – and was complicit in the crime – rather than trying to shed light on the assassination and help hold the instigator(s) accountable. Several references were made to the “1st July 2008 case”. It was another highly politically charged case that was separated into two: (i) lower level police officers who shot civilians during a protest on one side and (ii) senior leadership suspected of having given the orders to shoot on the other side. The case was also tried behind closed doors and kept secret apparently resulting, according to the views shared with the delegation, in the law enforcement and political leadership not being held accountable.

51. Fears were further expressed that the outstanding investigation was likely to be used to exert pressures and frame people for other ends. The delegation also observed with concern that at least two individuals - including Ms. Bulgan - against whom charges had been dismissed due to lack of evidence were still being arbitrarily prohibited from travelling in spite of the absence of any legal decision or grounds for it.

52. The delegation understood from the various meetings it held that one of the scenarios under consideration involved high level political leaders, including a former President, and may be related to the Erdenet mining company. The delegation was also once more reminded of the background of the current Head of the National Intelligence Agency who was allegedly involved in the abduction and torture of suspects in the past, including in the notorious case of a Mongolian citizen who was abducted from France/Germany and later died in detention.

(vii) Role of the State Great Hural and parliamentary oversight

53. While concerns were raised informally or publicly in a personal capacity by some individual MPs, official action formally undertaken by the State Great Hural as an institution to prevent and remedy the situation was very scarce and limited in scope. The delegation was consistently told that the State Great Hural was unable to intervene considering that judicial proceedings were underway. The Speaker clearly told the delegation that Parliament could not interfere with the judicial process. The same position was shared by members of the Oversight Subcommittee and of the Human Rights

Subcommittee. Some of the issues were however apparently raised with the Prime Minister (who supervises police and intelligence services) and discussed within the Oversight and Human Rights Subcommittees.

54. The delegation held some useful discussions about the oversight function of the Mongolian Parliament and the manner in which it was being exercised (or not exercised in the present case). The delegation was informed that the parliamentary oversight function was still very weak in Mongolia. It remained particularly difficult for MPs to obtain information about the enforcement of laws. MP Lundeetsantsan also provided further explanation to the delegation about the ongoing constitutional reform process and the draft amendment to strengthen the parliamentary oversight function.⁶

55. As regards the exercise of oversight in the Zorig case, the delegation obtained confirmation that there was no longer a specific parliamentary committee in charge of monitoring the case, as had been the case for most of the 19 years since the assassination. Mr. Zorig's relatives regretted this situation as they thought that it had helped to keep the investigation alive and to obtain updates on investigative activities. The delegation was also informed that the parliamentary petitions committee followed up with the relevant authorities upon receipt of complaints from the families of the convicted persons and of Ms. Bulgan. However, they received the usual response according to which the case was confidential.

56. The delegation was further told that the Zorig family's lawyers had lodged a request with the Parliament to seek the establishment of a working group tasked to review the classified files and challenge the classification decision if appropriate. No official response was provided to their request. Despite the conclusion of the court proceedings, the Oversight Subcommittee did not seriously consider seeking access to the classified files, although authorized to do so. The Committee Chairperson and members told the delegation that they felt that they had no reason not to trust the judicial system/process.

57. The delegation also had broader discussions about the existing legal framework regulating accountability of law enforcement officers. The delegation was alarmed to find that Mongolian legislation and its enforcement remains very weak in that respect. To the present date, law enforcement officials in Mongolia have remained largely exempt of criminal responsibility for abuse of powers, including for acts of corruption, torture and mistreatment during interrogations of suspects and witnesses. This partly accounts for the deteriorating reputation of the criminal system in Mongolia taking into account that deficiencies are particularly acute in sensitive political cases (essentially anti-corruption and embezzlement cases). The delegation noted with concern that some parliamentarians indicated that attempts made to establish such mechanisms had been blocked by Parliament and that there was strong resistance to any reform attempts within law enforcement services. The delegation further noted that Mongolia had not yet complied with its international obligations under the Convention against Torture to establish an independent complaint and investigation procedure nor a national preventive mechanism against torture.

⁶ Mr. Lundeetsantsan, MP and leader of the working group on constitutional amendments, explained the ongoing constitutional process to the delegation and some of the main reforms under consideration. A constitutional review process started in 2016. It involved broad consultations with the people as well as several working groups. The parliamentary working group came up with a "6-Point proposed Changes and Amendments to the Constitution" which has yet to be finalized and submitted to the Great State Hural. The final stage of the process will be a referendum. The main changes proposed consist of improving existing checks and balances between the legislative, executive and the judicial branch. As regards the Parliament, one of the issues is to strengthen its oversight capacity and enable it to create ad hoc inquiry/investigation committees. Proposed amendments also involve barring MPs from serving other functions, particularly on the Cabinet, and having a Prime Minister who will form his own Cabinet and be more accountable to the Parliament. Strengthening the independence of the judiciary is also an important part of the changes contemplated. One of the issues it is meant to address is that currently all appointments of high level judicial and law enforcement officials are made by the President (Heads of the Prosecutor's Office, anti-corruption agency, intelligence agency, general judicial council).

D. Findings and recommendations further to the mission

58. The following largely confirm the preliminary observations and recommendations reflected in the decision adopted by the IPU Governing Council during the 137th IPU Assembly (St. Petersburg, October 2017).

(i) Findings

59. The delegation was saddened to find out that none of the Governing Council's or Committee's prior recommendations had been implemented by the Mongolian authorities since the Committee's 2015 mission and that recent developments did not amount to progress in the case, but rather to a setback.

60. The delegation was extremely worried that the persistent secrecy and the political resistance to declassify the case were signs that the recent developments were not actually aimed at uncovering the truth, but at covering up for the real culprits of the assassination (direct perpetrators, organizer(s) and mastermind(s)). In that context, it was of particular concern that the 25-year statute of limitations (2023) was approaching.

61. In the delegation's view, the recently concluded proceedings cannot be considered as a legitimate and credible effort to establish truth and accountability as they are not in line with international human rights standards of due process and fair trial. Conducting expedited secret trials on the basis of secret evidence can never be seen as serving justice or the rule of law. The manner in which the proceedings have been conducted in the present case has undermined the credibility and legitimacy of the judicial system of Mongolia. It raises serious concerns of judicial impartiality and independence.

62. The delegation came to the conclusion that the three convicted persons appeared to have been framed by the intelligence services and pressured to make false confessions. The delegation seriously questioned the convicted persons involvement in the crime taking into account suspicious inconsistencies and exculpatory evidence brought to the delegation's attention.

63. The delegation confirmed that the mastermind(s) remained unidentified and concluded there were serious due process concerns about the investigation that had allegedly been opened to identify the organizer(s) and mastermind(s). The delegation could not fail but notice that none of the persons it met believed that this outstanding investigation, placed under the exclusive responsibility of the national intelligence agency, would achieve justice. It recorded with deep preoccupation that there were fears that it would likely be used to exert pressure and frame people to other ends. During its mission, the delegation was able to confirm that at least some of these fears were founded.

64. The delegation strongly believes that justice must be provided to Mr. Zorig's family, as well as to the three convicted persons and their families. A fair and open retrial before independent and impartial courts is now the only means to achieve true justice. It must take place without further delay to avoid a serious miscarriage of justice being perpetrated for political purposes. Given the profound distrust that has developed over the past few years, the delegation is convinced that this is a crucial test of the Mongolian judiciary's ability to demonstrate that it operates under the rule of law and has not become hostage to political and commercial interests.

(ii) Recommendations

65. The President of Mongolia, the Chairman of the State Great Hural and the Prime Minister should put an end to the persistent secrecy and order the immediate and full declassification of the case pursuant to the State Secret Law which grants them this power as members of the National Security Council. If the relevant authorities have nothing to hide, as they claim, the case should at last be opened up for the sake of justice and fairness, and to honour Mr. Zorig's memory and the dignity of his family.

66. The judiciary should demonstrate its independence, impartiality and respect for the rights of the defence by ordering without further delay a public retrial of the three convicted persons in the presence of domestic and international observers, to remedy all existing serious flaws.

67. To avoid a serious miscarriage of justice, the three convicted persons should be released and presumed innocent until a retrial has been completed in a fair, open and transparent manner. Until their release, the three convicted persons should benefit from ordinary conditions of detention with appropriate medical care and unrestricted access for their families and lawyers in prison.

68. Urgent measures should be taken to end all ongoing pressures and intimidation against the parties to the case, and all issues related to the coercion, torture and pressuring of witnesses and suspects should be urgently addressed through independent and impartial investigation procedures.

69. Ms. Bulgan and all other persons who were detained as suspects and subsequently discharged due to lack of evidence should be presumed innocent and their fundamental rights fully respected. They should be allowed to move freely around Mongolia and to travel abroad without restrictions, unless formally charged by a court of law on the basis of solid evidence.

70. The separate investigation opened to identify the organizer(s) and mastermind(s) of the assassination should be immediately transferred from the National Intelligence Agency to the Prosecutor's Office. It should be closely supervised to ensure that all incriminatory and exculpatory evidence is taken into account and that the investigative methods used by law enforcement officials are in strict compliance with human rights standards and the rule of law.

71. The State Great Hural should exercise strong parliamentary oversight, while respecting the separation of powers, to ensure that justice is done, and seen to be done, in the present case. It should consider urgently re-establishing an ad hoc parliamentary committee with a clear mandate to that end, granting it full access to all court documents and classified evidence so that a comprehensive assessment can be conducted. The IPU remains available, upon request, to facilitate technical assistance on ways to strengthen parliamentary oversight.

72. The State Great Hural should consider stepping up its efforts to ensure that all laws are enforced in a consistent and systematic manner in line with the Constitution of Mongolia and with international standards, particularly the State Secret Law and laws related to accountability of law enforcement personnel. It is encouraged to strengthen the parliamentary oversight function within the boundaries established by the Constitution and to use the joint IPU-UNDP 2017 Global Parliamentary Report for guidance to that end. Appropriate mechanisms should in particular be promptly established to ensure independent procedures and effective redress for all cases of torture and mistreatment in detention and for other abuses of power committed by law enforcement officials, including corruption. The provisions of the State Secret Law should also be reviewed closely. The Parliament should consider establishing an independent review mechanism, through legislative or constitutional reform, to enable citizens to challenge classification decisions that infringe on their fundamental rights.

E. Recent developments

73. According to media reports, in early December 2017, the Mongolian government decided to declassify most of the files related to the Zorig case pursuant to a request made by the new Minister of Justice, Mr. T. Nyamdorj (who at the time of the mission was the Vice-Chairman of the State Great Hural and the Chairman of the Mongolian IPU Group). The IPU welcomed this groundbreaking development in a press release dated 5 December 2017. The subsequent declassification process and its possible consequences on the Zorig case remain unclear to the present date. According to the complainant, it will not automatically trigger the reopening of the case or a retrial. The Mongolian authorities wrote on 30 November 2017 to confirm that they had conveyed the decision adopted at the 137th IPU Assembly in St. Petersburg to the relevant authorities and requested to receive a copy of the mission report for comments. However, they have not shared any information on the developments regarding the case.

F. Observations provided by the State Great Hural



МОНГОЛЫН ПАРЛАМЕНТЫН БҮЛГЭМ
MONGOLIAN INTER-PARLIAMENTARY GROUP
GROUPE INTER-PARLEMENTAIRE DE MONGOLIE



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21 March 2018

Dear Mrs. Fawzia Koofi,
President, Committee on the Human Rights of Parliamentarians

After 2 years of assassination of the former member of the State Great Khural (Parliament) of Mongolia and the acting Minister of Infrastructure Development, Mr. Sanjaasuren Zorig, in 2000, the IPU took into account this murder case. Since that time IPU adopted about 50 resolutions and decisions. Among them, there was a resolution requesting Germany, Japan, and the UK to provide assistance to the Mongolian side on the investigation of the case. Consequently, Germany offered a technical assistance and in collaboration with our side examined the evidence. Also, the representatives headed by the President and Vice President of the Committee on the Human Rights of the Parliamentarians had a mission to Mongolia in 2001, 2015 and 2017.

On behalf of the Mongolian Parliament, the judicial and law enforcement authorities, and the people of Mongolia, I would like to extend my sincere gratitude to IPU for the above-mentioned assistance and continuing concerns about the case.

Mongolian side has been showing a high priority to this case and for the investigation purpose established a joint working group, including the representatives from all related authorities. The group was headed by the Deputy Chief of the State General Prosecutor's Office in charge for prosecutions in the jurisdiction. After the completion of the investigation, the case was transferred to the criminal court of the first instance in 2016, and three accused were found guilty of conviction of the murder of Mr. Zorig. However, the accused and victims did not agree with the court verdict and thus appealed to the next two steps, the appellate and supervision courts accordingly. As both courts reviewed the case and found out that the investigation and prosecution proceedings did not violate the relevant laws and regulations, they retained the first court's decision.

The hearings of the courts of all instances were conducted closed. Consequently, the Mongolian Parliament has clarified from the authorities about the ground behind of this situation. And found out that some parts of the information and materials attached in the case file were related to the confidentiality of the State, and thus it was decided to conduct the court trials closed according to the Criminal Procedure Code.

When the State Great Khural (Parliament) has received letters or concerns from the IPU, particularly on the human rights violation or any mistreatment of the investigation and judicial proceeding, it tried to clarify the situation from the relevant authorities and reply back.

Following the completion of the judicial proceedings, some certain documents were disclosed by the authorities.

Although the perpetrators of the case have been revealed and sentenced, the organizer or mastermind has not been identified. Thus, the case of the mastermind was considered separately and the investigation is being conducted so far.

The Parliament of Mongolia intends to contact relevant organizations in order to receive the information about the development of the case on mastermind. However, again, the materials obtained during the investigation and attached to the case file belong to the State confidentiality and that makes the authorities not to disclose them according to the Law on the State confidentiality.

In accordance with the international legal norms, standards, and principle of separation of the power, the Constitution of Mongolia reflects that "The judicial power shall be vested exclusively in courts. 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 organizations shall interfere with the exercise by the judges of their duties".

Thus, our Constitution clearly states that the parliament cannot interfere with the courts jurisdiction, so it is not allowed to interfere with the judicial proceedings as well as decisions of the court.

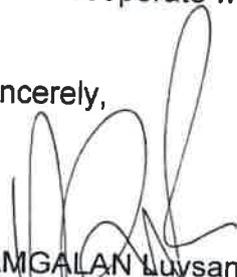
Same as the IPU, Mongolian state, parliament with the mandate to oversee the implementation of the laws, are also seeking the justice and fairness in solving this entire case in accordance with the legislation at that.

Therefore, since Mongolian parliament concerns all the items related to the case, it is important for us to be informed by the relevant legal and judicial authorities about their official observation on the detailed report of the Standing committee on Human rights of the parliamentarians. Thus, we have reminded them to express their official positions and give some feedback on the report, and are working on the collecting them. As a result, we have received certain responses from some authorities and are working on delivering them to the IPU.

Our laws and regulations are in line with the internationally recognized standards and norms of human rights and jurisdictions, so we believe that the case will be resolved under the existing Mongolian legislation.

Our parliament will further observe and care the process and development of the case on which the investigation is still going on, and would be happy to share the obtained news and cooperate with the related body of the IPU.

Yours sincerely,



ENKH-AMGALAN Luvsantseren
Deputy Speaker of the State Great Khural /Parliament/ of Mongolia

F. Observations provided by the General Prosecutor

UNOFFICIAL TRANSLATION FROM MONGOLIAN

Dear Chairman and esteemed members,

First of all, I would like to express my deepest gratitude for your continuous support and close attention on the criminal case of the assassination of former Parliament member Zorig.S, on exposing the crime and identifying its culprits.

We have been carefully acquainted with the expert report provided by the Inter Parliamentary Union in connection to the prosecution of the criminal case in relation to the assassination of Zorig.S.

I extend my deepest regret for the conclusion which has been made based on the information, that has not been confirmed and does not have an evidence, provided by the group that has been intentionally hindering the litigation and the family members of Sodnomdarjaa.B and Chimgee.T who have a conflict of interest to the case where the experts have been acting extremely one-sided.

I truly hope that the Inter Parliamentary Union would make a justified decision bearing in mind the fact that the experts' conclusion explicitly perverted the investigation and the criminal trial ruling, is extremely one-sided, and interfered in internal matters of Mongolia, and accordingly the experts issued the ungrounded conclusion based on the opposite side's information, even if they have heard about the reality, during the meeting with the Deputy to the State General Prosecutor and Head of General Intelligence Agency. The following denials have been provided to the experts' conclusion.

On classification of the criminal case as state confidentiality:

In the criminal case of Mr. Zorig Sanjaasuuren, a member of the State Great Hural of Mongolia, and acting Minister of Infrastructure Development, who was assassinated on 2 October 1998, contains the data, documents, facts which were classified as state confidentialities and data was obtained by use of investigation activities and methods were attached specified in the Law on State Confidentiality and Law on Adoption of State Confidentiality List.

This organization maintains and protects the state confidentiality in accordance with the Mongolian Law on Intelligence Agency. According to the conclusion of the expert who works at the State Confidentiality Division of the organization, "The letter #164 dated October 5, 1998 by the National Security Council, the protocol #11 dated October 3, 1998 by the National Security Council, and the notes of the interrogation of Munkhzul.B, Internal Division Head, Executive Service of Orkhon Province under the General Executive Agency of Court Decision, and Oyunbayar.Sh, Criminal Investigation Unit Head, Police Department of Orkhon Province, as a witness", all of which were taken as the case materials, were classified as the state top secret, as set forth in Article 1.2, Law on Adoption of State Confidentiality List, as well as the

information about the actions taken by the organization that is conducting the investigation of the case was classified as the state top secret, as set forth in Article 1.53, Law on Adoption of State Confidentiality List. Therefore, as the criminal case #830142 contains the information belonging to the state **confidentiality**, this criminal case materials belong to the state top secret as set forth in Article 1.19, Law on Adoption of State Confidentiality List, which sets the time frame of maintaining the confidentiality for 25 years.

As mentioned in the recommendations by Inter Parliamentary Union, 72, not 5, pages of materials of the case pertain to the state confidentiality, and the Law on State Confidentiality, which was effective during the investigation of the case, states that even if only one page of material of a criminal case is classified as the state confidentiality, it must be investigated belonging to the state confidentiality.

Investigators, prosecutors, and court do not have the right to disclose and release from protection the evidence and information pertaining to the state confidentiality. In other words, since the way and form of actions to be executed under the Law on State Confidentiality and the resources, information source, supporting force, documentation or physical object to shield them must always remain confidential belonging to the state confidentiality, it is impossible to disclose them.

Classifying as state confidentiality, protecting and utilizing the state confidentiality is regulated under the law, not by anyone's request. As stated in the applicable law, the state confidentiality is disclosed and released from the state protection in accordance with the State Great Hural's decision, and in the exclusive case, the President of Mongolia is entitled to disclose it based on the proposal by the General Intelligence Agency.

In accordance with the afore-mentioned law clause, on March 10, 2017 the Mongolian President had issued the order E/01, the Working Group, appointed under Resolution dated March 15, 2017 by the Head of General Intelligence Agency, disclosed some state confidentiality related documents of the criminal case #.830142 and certain documents remained confidential.

In addition, the Government of Mongolia re-disclosed the part of the criminal case related to Sodnomdarjaa.T, Chimgee.T and Amgalanbaatar.Ts. which had been disclosed before under the decree of the President of Mongolia, and the way and form of actions to be executed under the Law on State Confidentiality and the resources, information source, supporting force, documentation to shield them was not disclosed.

The previous recommendations provided by the Inter Parliamentary Union did not mention about the release of the case from the state confidentiality, however, it recommended to release the case from the state confidentiality after judgment became finally binding, which draws attention.

The defendants' family members, their attorneys, and the victims' family members made a request to court to hold the proceedings open during the three level court proceedings of the case related to Sodnomdarjaa.T, Chimgee.T and Amgalanbaatar.Ts, however, the court denied it.

Since some documents which are related to confidentiality of the entity or the State were attached in the case file, court decided to review the case in closed hearing due to part 235.1 of the Article 235 of the Criminal Procedure Code which states "All court hearings shall proceed in open court except case related protection of confidentiality of the State, entity and individuals and against minors".

When the case was being reviewed by the Supreme Court, revised Criminal Procedure Code was approved and entered into force. Pursuant to 1st part of the Article 3.2 of the new Criminal Procedure Code, it stated that court hearing shall be conducted closed in case of "Confidentiality of the State, entity and individuals is required to be protected". Accordingly, court trial was conducted in closed hearing and only part of court decision on guilty was read for public, since information and materials related to confidentiality of the State were attached in the case file with reference number 830142.

In accordance to the Law on confirming the list of state confidentialities, and the Law on State Confidentiality, it is stipulated that participants, their legal representatives, and lawyers of criminal cases where information related to state confidentiality was retrieved, and if the criminal case is included in state confidentiality, are obligated to make a confirmation on non-disclosure, and acknowledgement that disclosure would result in criminal liabilities.

Thus, all criminal cases where information of state confidentiality was retrieved, investigated under secrecy were settled in closed court hearings.

Deputy Prosecutor General of Mongolia Erdenebat.G introduced and interpreted personally to the members of the Inter Parliamentary Union who visited Mongolia, about each criminal case which has been investigated and resolved belonging to the state confidentiality and what law and principles has been followed.

Unfortunately, IPU ignored this interpretation and introduction, and has made conclusion based on the ungrounded information provided by the people who are not participants to the criminal procedure and who have been found guilty by final binding judgment and their family members and associates who have a conflict of interest to the case. We regret much for this.

On the issue of Sodnomdarjaa.B and Chimgee.T was convicted only based on statement obtained from Amgalanbaatar.Ts.

As stipulated in section 82.1 of article 82 of the Criminal Procedure, "an accused shall have the right to give testimony in relation to accusation presented to him/her, or any circumstances of the case known to him/her or in relation to evidences in the case", and article 82.2 "Confession of guilt by the accused may become the basis for an accusation only if the confession is confirmed by other evidences in the case", the affidavit given by Amgalanbaatar.Ts and Sodnomdarjaa.B was confirmed by other evidences and prosecution on this case not solely based on the affidavit of Amgalanabaatar.Ts.

When the substance of the statements given by Sodnomdarjaa.B and his handwritten letter on his own case were proven, to deny his guilt, through his lawyer, family members and public officials /member of Parliament/ who had

met him, he had provided the information and made them understood that the Intelligence agency had tortured and drugged him while he had provided those statements. However, the process of receiving his statement was conducted in accordance to the Criminal Procedure Code, and was validated by audio and video recordings. After the prosecutor's office had conducted an inspection on whether the intelligence agency had illegally pressured and coerced Sodnomdarjaa.B in making his statements, the information provided by him to you were proven to be false.

On the issue that they were not introduced to the criminal file:

In section 41.3.8 of article 41 of the Criminal Procedure Code states that a convict has the right to be introduced to their criminal file, and with the exception of files that are confidential, permits them to make copies with their own expenses. In regards to this case, the accused, the accused's lawyers, the victim, and the victim's lawyers were informed that they all would be introduced to the 58 case files.

As stipulated in section 212.7 of article 212 of the Criminal Procedure Code, "participants would be introduced to the case within the timeframe set by the inquiry officer and investigator, and the inquiry officer and investigator will provide the conditions for the introduction", victim's lawyer Enkhsaikhan.Ts, accused Sodnomdarjaa.B's lawyer Munkhtur.L had requested to extend the period for being introduced to the case files where the total days for the introduction were extended to 67 days. Yet, having been not able to get fully introduced to the files, they had signed the registry stating that they had a chance to review 42 of the total case files.

In section 215.3 of article 215 of the Criminal Procedure Code, states that a prosecutor shall review and make a decision after a case had been brought to them after full investigation, within 14 or possibly an extension for another 14 days under special circumstances, or within a total of 28 days.

In regards to this clause, the investigator had provided full opportunity for the accused and their lawyers to be introduced to the case files. The other participants had reviewed and signed that they had been fully introduced to the case files within 67 days.

On illegally detaining Sodnomdarjaa.B and Chimgee.T:

With the prosecutor's approval, Sodnomdarjaa.B and Chimgee.T were arrested on August 31, 2015 and were imprisoned by the court order of the criminal court of first instance of Sukhbaatar district. They have not been arrested without the prosecutor's permission, imprisoned without court order, or had been tortured, and failed to be provided of medical support and visits during incarceration.

During the time of imprisonment of Sodnomdarjaa.B and Chimgee.T, the requests, its resolutions, visits, food, their requests on medical assistance, the assistance provided, outdoor refreshment, room temperature, lighting and other legal rights were all provided and the documentation proving that their detainment was no different than any other individuals who have been investigated and had been detained is attached in the criminal file. The prison

that they are being held that is affiliated with the Tuv province General Executive Agency of Court Decision is built and maintained in accordance with applicable standards that are followed in Mongolia.

After an inspection on the prison in Tuv province where B.Sodnomdarjaa and T.Chimgee is imprisoned, that is affiliated with the General Executive Agency of Court Decision by the Prosecutor's Office, it was found they were placed in cells that had 24 hour CCTV and a conclusion was reached that their rights were not compromised and their conditions were no different than any other prisoners.

By following the complaints made from the accused's family members to the National Human Rights Commission that the imprisonment guidelines are being violated, Dugersuren.L an aide at the Mongolian Human Rights Commission had met the accused individuals, received their feedback and comments, inspected and concluded that their rights were not violated and its documentation had been attached to the case file.

The court order on detaining the accused individuals, and the extension of the detention was done by a court order issued in accordance to section 68.7 of article 68 of the Criminal Procedure Code, and all the orders were introduced to the accused, their lawyers; and the Prosecutor's recommendation to extend the detention was resolved through a court hearing that was requested by the accused' lawyers.

From the inspection conducted by the prosecutor on Tuv province's detention center and whether Sodnomdarjaa.B, Chimgee.B, Amgalanbaatar.Ts's legal rights of receiving visits, meetings and packages had been violated, it was found that B.Sodnomdarjaa and T.Chimgee's requests on family visits, receiving of packages had been fully satisfied, and B.Sodnomdarjaa's mother Javzmaa's statement given to the prosecutor's inspection had said that her requests for visits had not been rejected illegally and that her rights had not been violated. The copy of the statements and its related documents had been attached to the case file.

On the issue that the trial had been hastened:

The prosecutor had received the case that is related to Sodnomdarjaa.B, Chimgee.T, Amgalanbaatar.Ts on October 28, 2016 and prepared an indictment numbered mn/05 on November 14, 2016 and transferred to case to court. Sukhbaatar district's criminal court of first instance had processed the case on December 25, 2016. The trial of this case had not been hastened in any way and had been processed in accordance with the Criminal Procedure Code. The review and resolving of the case had been conducted before the Mongolian Presidential election and after the Parliamentary election.

On the issue of not presenting the court judgment to the accused, the accused's lawyers, victims, and the victim's lawyers:

The court judgment was received by the accused, the accused's lawyers, the victims, and victim's lawyers, and convict Amgalanbaatar.Ts's complaint "...please punish us along with the hiring party...", and convict Chimgee.T's complaint "...I am amazed why the hiring party and the co-participant are not

being punished. Please exonerate our case", convict Amgalanbaatar.Ts's lawyer Dashdorj.D's compliant "...please conduct additional investigations on the case...", convict Sodnomdarjaa.B's compliant "...I am not involved in this case, I was conscripted at the time...", Sodnomdarjaa.B's lawyer Munkhtur.L's complaint "...please dismiss and exonerate the case related to Sodnomdarjaa.B...", the victim's lawyer Enkhsaikhan.L's complaint "...please conduct additional investigation on the case...", convict Chimgee.T's lawyer Oyuntsetseg.L's complaint "...please exonerate Chimgee.T, as she is not found to be guilty..." was made to the court. The court judgment had been received by the convict, the convict's lawyers, the victim, and the victim's lawyers. The papers they had signed upon receiving the court judgment, and the documentation of the court presenting the judgment is attached in the case file.

On the issue of the accused Amgalanbaatar.Ts had sent threatening text messages from prison and threatened Sodnomdarjaa.B, Chimgee.T and their families and coerced them in regards to S.Zorig's case, Sodnomdarjaa.B's wife, through public television had provided the information that Amgalanbaatar.Ts had coerced her and Sodnomdarjaa.B through text messages since 2004. However this was a period when Amgalanbaatar.Ts was living in his home without being investigated for any crime.

In relation to Sodnomdarjaa.B's complaint to the Orkhon provincial police, it was found that the compliant did not qualify as a crime after investigation, in accordance to the criminal code. The related materials are attached in the case file.

Therefore, we are deeply upset that the Inter Parliamentary Union had made a conclusion that is too biased on one side, basing the conclusion on unproven, nonfactual information provided by the family members of Sodnomdarjaa.B, Chimgee.T, people who have conflict of interest to the case, and a certain group of people who are intentionally obstructing the court procedure.

On the basic principle of the Mongolian Criminal Code, and in accordance to the clause "It is obligatory to impose criminal liability on a person who committed a crime", the court made the final decision of convicting Amgalanbaatar.Ts, Sodnomdarjaa.B and Chimgee.T. The investigation on the party who had hired them for the assassination of Zorig.S, Member of Parliament, and acting minister of infrastructure development is still underway.

In addition, the working group that is tasked with investigating the hiring party had not been disbanded, but some changes have been made to its composition.

We are deeply convinced that you will accurately assess the current situation and help us in solving this criminal case.

GENERAL PROSECUTOR
OF MONGOLIA

ENKH-AMGALAN.M

F.3. Observations supplied by the National Human Rights Commission



**NATIONAL HUMAN RIGHTS
COMMISSION OF MONGOLIA**

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Date 20 March 2018
Ref. 1/426

Mr. Martin Chungong
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Dear Mr. Secretary General,

The case of the assassination of Mr. Zorig Sanjaasuren was tried by the criminal court of first instance and finalized through the Court of Appellate Instance and Supreme Court of Mongolia. Part 1 of Article 47 of the Constitution of Mongolia states, "Judicial power shall be vested exclusively in courts." Part 11.2 of Article 11 of Law on the National Human Rights Commission of Mongolia states that the Commission "...shall not receive complaints about criminal and civil cases and/or disputes, which are at the stage of registration/inquiry of cases, investigation and/or on trial or have been already decided," and the Commission only has power to receive and handle complaints on alleged human rights violations committed in the proceedings.

B.Sodnomdarjaa, Ts. Amgalanbaatar, T.Chimgee, and B.Bulgan, who were charged with the assassination of Mr. Zorig Sanjaasuren, and their defense lawyers lodged total eight complaints to the Commission from August 2015, and the Commission resolved the complaints within its mandate as well as had them handled according to relevant jurisdictions by referring to the State Prosecutor General of Mongolia, Ulaanbaatar Metropolitan Prosecutor's Office, General Executive Agency of Court Decision, and General Intelligence Agency.

Sincerely,

Prof. Byambadorj Jamsran
Chief Commissioner
National Human Rights Commission of Mongolia

cc: Mr. Enkh-Amgalan Luvsantseren, Vice Chairman, State Great Khural

G. Observations provided by the complainant

My late brother Zorig Sanjaasurengiin was one of the main pro-democracy leaders in Mongolia in 1990's. He was elected as an MP in 1990 and Served as Minister of Infrastructure in 1998 when he was brutally murdered in his flat. It was a big tragedy and shock for our entire family. Zorig was only 36 then. Our mother hadn't fully recovered from this loss and died a few years later.

His murder case was not being resolved for years and it was widely seen as politically-motivated. Towards the end of 2016, eighteen years after the murder, prosecutors have claimed to have resolved the case and handed it over to the courts.

As it is legally required when the criminal cases go to the courts, we, the family, were given access to the investigation case files for the first time after 17 years. However, the case has been classified as the state secret and myself and my brother (as well our lawyer), who had accessed the court materials, were not allowed to disclose any information.

The trials were closed to the public. We repeatedly demanded for the court hearings to be open. This is essential to restore the confidence of the public. These demands were not met. Although we were allowed, as victim's family, to attend the hearing, in protest for secrecy and closed hearing, we did not attend. Our lawyer attended on our behalf, but was not allowed to express any positions or make any statements *outside* the court. In a fair trial, we should have the right to explain to the public why we have doubts about the convictions.

We seriously question that the justice is done. First of all, both the prosecutors and the courts were not able to neither find nor convict the real masterminds of the murder, those who ordered or organized the murder. Secondly, we fear that the convicted three were wrongfully convicted. We are disappointed in our judicial system: we feel that the case was not resolved in an independent, impartial and just manner.

We welcomed the recent government decision to partly declassify the case, however the legal procedures to implement this declassification was very slow and the files are still de facto not open. The outstanding investigation to find the masterminds (organizers and those who ordered) is undergoing and we are expressing our hope that this will be done fairly and justly, following the rule of law.

We are very thankful to IPU and its Human Rights Subcommittee for their continuous support throughout these years, in trying to both help the authorities in progressing the case when requests have been made by authorities but also putting the just pressure for the case to be resolved; also for sending the missions to Mongolia.

We want the full truth be established and that the *true* justice to be brought. It Is not only for the sake of our family, Mongolian people deserve to know why one of their most respected politicians, Zorig, who devoted his short life to bringing democracy and progress to his country, was murdered and who the perpetrators were. We call our authorities to remedy this grave situation and ask IPU to support the fair and true justice.

On behalf of Zorig's family:
Oyun Sanjaasuren, sister of the victim
22 March 2018

H. Open letter of one of the persons sentenced for the murder of Zorig, recently published in the Mongolian media

This is the full text of the letter addressed to his family by B. Sodnomdarjaa who was sentenced for murder of S. Zorig.

Dear my all,

My most loved father and mother, my in-law parents, my wife, children and grandchild, my four siblings and their children, my two older sisters and their family and children, my five older brothers and their family and children, my wife's four younger siblings and their family and children, her older sister and her family and children, my friends and including the people of my home village of Taiship, Soyut of Tov province. This is greetings from the prison's unit 405.

I believe that you all had a great year and feeling well. I feel good. I miss you all very much, and think about all of you all the time day or night. Last January 22nd my mother, wife, Davaaskaa, Erka, Uilsee, Baatar, sons: Davaahuu, Myagmarhuu, Erdenehuu, Ariumzul, Haliunaa, Davaagerel and Theye came to visit me. Thank you all for coming to spend with me those short three visiting days. You gave me a lot of positive energy to enjoy and I still keep it inside myself.

To my two parents, I kept my confidence in the Mongolian judiciary until December 27, 2016. I was confident that I would be freed on that same day. But I was sentenced under the completely different article of the Criminal Code of Mongolia. The legal proceedings were not conducted in accordance of the law, the Court trusted the words by the two prosecutors who supported ill-actions of the four investigators. I would have been honest in front of the law if my lawyer would have an honestly conversation to me at the time. When you (my family) came to visit me on July 20, 2017 I said to you that I was sentenced under the articles 91,21,91,24 of Criminal Code of Mongolia.

Under these articles the four investigators ruled out that Amgalanbaatar and Sodnomdarjaa had a verbal conspiracy against the state and they fabricated this case, in this way deceiving the country.

Why such conclusion: the very first investigator who jailed me, said to loyal to him officer, "while in your office push hard those three, otherwise you are going to execute innocent person". Think about your beautiful kids, your life instead of dying being framed up, frame them up back says the young officer downstairs, and upstairs the inspector himself convince me to do so. Listening to these two people for 18 days, I thought the state policeman would not lie. He made me believe in Barhasbad, and in that this person never lies. And on that deadly day of September 18, 2015 when I was depressed, he gave me a pill, I took the pill and I started repeating every spoken word as a parrot. That's it! He made me to voice out everything he wanted and then said now you will never see the sun, and pushed me directly "now name all your mates in this crime".

Every time when you visit me I tell you how I was framed up. I told you again during this time visit too. In this way people who never committed any crime were put together and charged with murder and during the investigation they were re-questioned to fit the case. I told you about this re-questioning when you visited me on October 24th, 2017. The questioning was held on January 28th, 2016. I told that I went through the military commission in 1998. Little later, inspector Byambajav came in to see me on February 14 2016 and said to me "Sodnomdarjaa, you were checked with military commission, you are lucky person". Now you can pray your god and take your breath. Then inspector Byambajav showed up on March 11, 2016 and said to me that he thought that I am stupid, so he undertook a little operation, but you come to be smart one. I know that you have fabricated the case. You are not going to deceive the state. Your conspiracy is proved, he yelled at me and left.

Soon after on April 8.2016, inspector Barhasbad said to me why you remember so well about that you went through the military commission. I answered, since 1994 I went through the military commission twice a year. And every year I was released from the military service because of the family hardship. Here in prison I was thinking every day, and I recalled that I went through the military commission in October 1998.

Then soon after on April 10, 2016 I gave a scientific test called pilacrafic to the inspector Barhasbad. The test results showed nothing against me, so I said take whatever tests you want to take. I want out of here.

On June 2, 2016 the lawyer Enkhtor came in to see me, and if I only would not followed this lawyer's instructions I would have been home. The lawyer said you know very well that you went through the military commission.

On July 17, 2016 inspector Barhasbad came and sent for me, you are now will be taken to the mental institution (Shar Had), he said you deceived the State.

I said: why would you, from the beginning, let Amgalanbaatar and your police officer into my cell. If you followed the law and would not let them in, I would have been home in September 2015. I suffer because of these actions taken by you. If in the very beginning you would questioned me with the presence of Monkhtor (female) lawyer, I would have been in front of my children not you. Now I suffer. And the inspector left.

On July 20, 2016 inspector Barhasbad came in to get my signature and hand-writing of numbers from 1-20.

On August 11, 2016 Monkhtor lawyer said to me, how well you remember that you checked through the military commission. I replied, I remember very well that I was 24 when I checked through the military commission. And I told that inspector Barhasbad came in and took many samples of my handwritten signature. The lawyer said that the inspector is checking on you and Amgalambaatar, whether you and him had handwritten exchange. Just listening to her I could say that her words sounded the same as those inspectors' who sentenced us as fabricated case players. But because of her official status as a lawyer, she could not push the charge directly.

On September 6, 2016 four intelligence officers came in to see me and they told me that Barhasbad never instructed you on the apartment or any other thing. We are going to witness. Between the September 27 and October 3rd, 2016 I went through the materials of that false case, my lawyer showed up three times. I have written down the testimonies of the first three B. D. B. witnesses from the 1-st and 2-nd folders and told them that I do not want to read any more and did not go there last two days.

On November 14, 2016 prosecutor Batjargal asked me if I read the case materials. I told him yes I have read the materials of that false case. Nothing is related or fit to me. He said that Amarglanbaatar and you had fabricated this case. The four intelligence officers find that you might be connected to the Amarglanbaatar's case. Prosecutor's office agreed with them. And you are accused of crimes under the articles 91/21 and 91/24. If you do not understand in accordance with the 2002 law, the article 141 means 5 years of imprisonment. I told them that have no relevance to neither of these cases.

Prosecutor Batjargal told me that Amgalanbaatar would fully take charges for the radiator case, that radiator case has nothing to do with you. That's it. I might come to see you before the trial. Good bye. See you at the court. He left.

On November 20th, 2016 the lawyer Monhtor came in to talk. I told her what the prosecutor said to me. I would be sentenced for 5 years of imprisonment. What is going on? The lawyer lied to me. What are you talking about? You have the death penalty; why you have not read the materials of that case very carefully. Tell to the court everything what those witnesses said. And she left. In this way my lawyer turned her back on me. While the inspectors and prosecutors were telling to us that "you two fabricated a case and deceiving the state", our lawyer Monhtor showed no sign of knowledge of this situation.

On December 14, 2016 inspector Bold from the intelligence office and Monhtor came to see me. Inspector Bold told me then 'If would educated and nurtured Amgalanbaatar well in his childhood, he would not commit this crime.' The lawyer said " Sodnomdarjaa read some good books for now".

The repression trial was held on December 21, 2016. I was confident in the Court's justice and expected to go home to you and my children. But prosecutors Batjargal and Sandagsuren together

with those four inspectors from intelligence office conspired with the court about the articles 91\21 and 91\24 and I was sentenced under the top secret case. Several times they came to me saying that I am involved with the Amaglanbaatar's fabricated case. I told them that I have nothing to do with this case. And unable to find the real guilty person, they repress innocent people. During the 2016 trial prosecutor Batjargal approached me and showed my hand-phone saying "do you recognize your phone". I told him you were telling me completely different things during previous meeting. He said nothing and went back to his seat. Our lawyer's fake acting proved that these three people; the prosecutor, inspector and lawyer together fabricated the case. On December 27, 2016 I was expecting the fair trial, and they would sort out the Amgalanbaatar's case, instead legal officers conspired to sentence an innocent person as criminal. Right in this situation a person under repression is able to do nothing.

I asked the lawyer what is going on, but the conspired people had nothing to say. When I left the trial, the intelligence officers said to me "now you have chance to tell the truth". And I started thinking what I say to the false trial. I was thinking how evil a human being could be, and right this moment there are many good-minded people. You encountered with really evil people said a good person who came into my dreams. That person explained to me everything in my dreams.

At the second trial my lawyer arrived. I was thinking, now what this person is going to tell me. But she told to write down the same witnesses. I obeyed. I took my appeal to the court in January 2017. As I was instructed by my lawyer. And on March 2, 2017 the lawyer said that the trial is coming soon so write again. What now I asked, the same thing she said. I again obeyed. And the court hearing was held on March 14, 2017. I was confident in Mongolia's fair Court and I would be released right away. The court was held. Batjargal and Sandagsuren voiced out the same 91\21 and 91\24 sentence. Judge enquired prosecutor Batjargal on grounds of the sentence for these people. Prosecutor Batjargal panicked, could say nothing. And the court could not rule out a verdict. And again someone from the court ordered to write an appeal. Again I wrote the same appeal. And on April 21, 2017 I was handcuffed and taken to the prison. In 10 days on May 2, 2017 my lawyer visited me in prison and told me to strictly obey the orders of the prison officials. Again write down about all those witnesses. The court will be held soon. Your people are talking about getting one more lawyer. It is going to take some time until it happens. She left. She truly can act. Later deputy attorney general Mr. Erdenebat visited me. June 19, 2017. He asked when Amgalanbaatar and I met last time. What year you two started text-messaging each other. These were same questions the inspector asked me. I expected that Mr. Erdenebat would do the justice. But contrary he supported the other two prosecutors. Since then I was disciplined for 72 hours twice in the prison's disciplinary cell for protest actions against being arrested with no guilt.

And beginning from September 1, 2017 Amgalanbaatar and me started to talk to each other. That day when I told him to stop on false case, he said to me that the case is not false. What could I say to this? We had a very cooperative peaceful childhood together. We recalled our past when we hay-made and shared food. Although he is doing a great harm, as a human being he chat about his past life about his grandparents, I talked about my parents and siblings.

On October 25, 2017 I had an argument with Amgalanbaatar and asked him, people say that we have conspired for this fabricated crime as the inspectors and prosecutors say and deceived the state, what does this mean. Since then we never spoke. We spoke again after January 10, 2018. And on January 22, 2018 my mother, wife children and siblings came to visit me, and I was allowed out for three days. And the visiting room filled with the voices of my kids. In three days I went back to the cell. It was January 25, 2018. When I came back in, Amaglanbaatar said to me I listened to your kids' voices for three days. I have offended so many people and made them cry, I behaved as an evil. But there is no mistake which could not be corrected. Beginning from this very moment my heart and intentions are clear and benevolent. I want to see my foster parents. I made a request he said. I said Amgalanbaatar 'very good'. I enjoyed the feeling that a person could make a turn to the right path. And on January 26, 2018 we were put into the different cells and since then I have not seen him again. I think no matter what, his mind turned the right path. I was the happiest person when I was visited by my wife and kids for three days. Zulaa grew up very tall. He missed his dad very much and talked a lot.

One night my siblings Ochirvaan, Tserenjav, Zandaa, Tserenhuu, and Lhagva-Ochir all came into my dreams. Baavaa came to my dreams two nights in a row, in my dreams he put on me the lama's outfit and Byamba, Amgaa come to my dreams occasionally.

You are all come to my dreams. My dreams are all about my loving wife and kids. My father is good-minded kind person always ready to help people. Your poor son become a victim of the incrimination, the conspiracy of the four dishonest inspectors who distorted the law against me, but so far I won every time when I acted honesty and for the truth. I think about those evil the very first inspectors. They intentionally organized clash between the people, and enjoyed watching the cruel fights, they knew beforehand about those people's personal incompatibility. And when things went wrong they reported to the prosecutor Batjargal on that Amgalanbaatar and Sodnomdarjaa conspired against the state under the articles 91\21 and 91\24 in this way incriminating innocent people and re-articulating their own wrongful activities.

On December 27, 2016 I was sentenced for 25 years of imprisonment this verdict put me through the severe moral suppression, and then beginning from April 21, 2017 I was transferred to so-called cage and furthermore they abused the power trying to make me to confess to a crime. They still keep me in here though they said to me that in accordance with Mongolian law the capital punishment is now 20 years.

I was born a human being given a certain amount of time of life and I disgrace those people who terrorize and intimidate me on behalf of the law. I can name each one of those legal officials beginning from August 31, 2015 who exercised harming and slandering in my case.

The food in cage is uneatable, the cage is kept in dark, it is 2 meter square place without window. Very depressing. They would let in somebody and encourage physical attack, imprison somebody in the adjacent cell and make him to pressure me, they tell me that my wife gave a birth when she wasn't. In this way they were enormously pressuring me morally and physically. I told all about these things to prosecutor Batjargal. But he later reported no pressures, things are going under the law. In the Tov aimag's detention center I had toothache for a month. I told the officials, nobody paid attention. On the wet napkins it was written 'kills bacteria', so I tried to rinse my mouth with the liquid from the napkin. But they did video record of this and with the description saying that Sodnomdarjaa attempted a suicide. And the recording was submitted to the prosecutor. And in 2015 from September 1st till 5th when I was having violent arguments and fights with the two others inmates in my cell, long after they reported for the record "there are no pressures on Sodnomdarjaa." That's how they can treat innocent person.

If only these legal officers would run the proceedings right way from the beginning, I would already be back with my family, children and loved ones. Instead those four inspectors together with the "excellent" lawyer Monhtor demonstrated how the law could steal the freedom of a man.

Dear father, by now I am able to confront any pressure, in this challenging place the legal officers and inmates could walk all over such a quiet person as myself. Dear father I follow the god's teachings and treat my wife, children and others gently. In such a place as here, if you are quiet, you find yourself in my present situation. I do not mind if would fall as victim of somebody ill-intention or predator-animal. But I am a victim of the legal officers who took the oath. If I behave quiet I am a fool, if I start speak out they put me into the disciplinary cell for 72 hours for being noisy. Since last year I was awaiting somebody or a lawyer would visit me for questioning.

Right now I am writing complaint to the Court of Mongolia. I am writing about "out of law inaccuracy" did by Byambajav, Barhasbad and the prosecutors. I put down how I suffered for this period of time under the laws no others countries practice. And I included city prosecutor's own words said to me. I have submitted my complaint.

In the beginning I was very confident that Batjargal would go for the truth. And also I wished Monhtor lawyer to follow the law and justice while performing her duties. If my lawyer would not conspired with them from the beginning I would long ago, in 2015, be with you, working hard to feed my kids.

I address legislation and legal officials of Mongolia; whom you trust; the honest words of an ordinary person living for and taking care of his family, parents, siblings and other people of Mongolia, or Barhasbad, Bold, Byambajav, Battomor from intelligence office who conspired with the prosecutors Batjargal, Sandagsuren and Monhtor lawyer who ill-used and ill-practiced the law. I am confident that Court of Mongolia would deliver the right verdict.

Beginning from 2015 I am listening to the dialogs and conversations by the prosecutors, inspectors, lawyer, prison officers, inmates and lawyers. And I, now, realize very much why they want to connect me with the crime I have never committed.

It's believed among the people, that you, my parents gave birth only to your child's but not its mind. You son did not commit a crime, thus awaiting the time will come when justice to be established. I was happy about and confident in the 2016 Court hearing. I was confident about the next court too, and still believe in justice while writing down these words. A human being is very sensitive, and you are always very grateful for single kind word. I had heard that kind word while in the Tov aimag's detention center, and I thought kind people are everywhere. And the inmates in there, they all knew me and supported me with such a little gestures as blinking the eye and thumbs up. If they would get into a conversation with me they would get into a trouble.

And after the Court in August 2017, I went on hunger strike against its decision, and stopped it in one day because of the deputy prison officer who kindly convinced me to stop. Dear my loving mother and father, my heart and soul is already with you and my wife Enhuush and my children, my relatives and siblings and all my loved ones. Here in prison is just my physical body. I hope my father-in-law is doing well. My father took care of all my children. What a blessed man. I believe that he feels happy among the kids noise. In troubled times you can count only on your closed ones you family your parents. I believe that farther and mother are happy to have enlarged their house, now people coming to greet them during Tsagaan Sar would feel more comfortable. I wish I could greet my both parents for Tsagaan Sar right now. I was the happiest when recently my wife and children came to visit me for 3 days, my wife's care and cooking was great. We will have more kids. Let me wish you all the best in the coming Tsagaan Sar celebrations. Father I would never kneel down before the false law. If somebody thinks that I gave up, you are mistaken. I kneel down only before Mongolia's mountains and rivers and to the land.

B. Sodnomdarjaa