



Բաց Հասարակության Հիմնադրամներ - Հայաստան

Open Society Foundations-Armenia

Monitoring of the National Assembly

5th Convocation | 8th session | 7th report

(September 12, 2015-December 21, 2015)

Mandate NGO presents the findings of the monitoring of the work performed by the NA of the 5th convocation in the 8th session. The summary was prepared by putting together the journalistic observations, expert analytical reviews and data generated by the statistical application of the *parliamentmonitoring.am* website.

The first section brings together the general tendencies and indicators of the parliament performance during the 8th session and presents information on legislative initiatives by NA factions and their level of engagement.

The *Legislation* section covers the distinctive features of the legislative process over the fall session and the monitoring results concerning several of the legislative packages adopted. The *NA Oversight* section looks into the functions of oversight by the NA. The communications/reports presented over the session were reviewed against procedures set by law and from the perspective of effectiveness of parliamentary discussions.

During the 8th session the National Assembly discussed the draft Constitutional amendments and adopted the decision which approved putting it up for a referendum. The report presents the monitoring results of the parliamentary discussions over the draft assessing the role and involvement of the NA in the process.

The results of the work performed by the Ethics Committee set up in the National Assembly of the 5th convocation are summed up as well. We also looked into the practice of parliamentary hearings from the perspective of its effectiveness and impact.

The final, *Appendix* section of the report contains expert analytical reviews.

Experts

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5th CONVOCATION OF THE NA, 8th SESSION

Session in figures

During the 8th session of the National Assembly of the 5th convocation 5 four-day and 4 extraordinary sittings were held. Following the end of the session another extraordinary session was convened. 4 out of 5 extraordinary sittings were initiated by the government.

116 laws were adopted (47 legislative initiatives), 4 of them being “mother” laws and 112 amendments and additions to the operating laws. Only 8 of the adopted laws are authored by NA deputies. The government is the author of 107 of them and the remaining 1 is a joint initiative of the Government and the NA.

Around 80% of the laws, 90 out of 116 were adopted over extraordinary sittings (36) and a session (54).

The majority of the adopted laws referred to the economic and financial-credit area (68). 12 amendments were made to the state-legal, 6 to the defense area and 5 to the social sphere legislation.

The NA has ratified 18 international treaties. 14 of those were adopted over extraordinary sittings/sessions. The majority of them are loan agreements.

The parliament adopted the decision which approved holding a referendum on the RA draft constitutional amendments.

During the 8th session the NA also discussed the report by the Defender of Human Rights for 2014, and the communications of the Public Television and Radio Company Board and the National Commission on Television and Radio for 2014, the report of the Central Bank monetary policy for 2014 and the program for 2015, the Annual report of the Control Chamber for 2014 and its work plan for 2016.

Around 250 questions included on the NA 8th session agenda were not discussed and around 150 circulated drafts were not included on the agenda of the session.

Noteworthy facts about the session

Legislation

- The parliament has recorded an all-time high ratio of laws adopted over the regular and extraordinary sessions. It adopted 4 times more laws over 4 extraordinary sittings and 1 session than over the entire regular session. So, 90 out of 112 legislative amendments were adopted over the extraordinary sittings and the session.
- 14 out of 18 agreements ratified over the session were adopted over the extraordinary sittings. Their vast majority are loan agreements with the total amount exceeding half a billion dollars.
- No draft discussed over the session was declined in a vote. 5 drafts authored by the opposition factions and independent deputies were not put on the agenda and were postponed for up to 1 year, and another draft was declined in a vote on inclusion on the agenda.

Committees

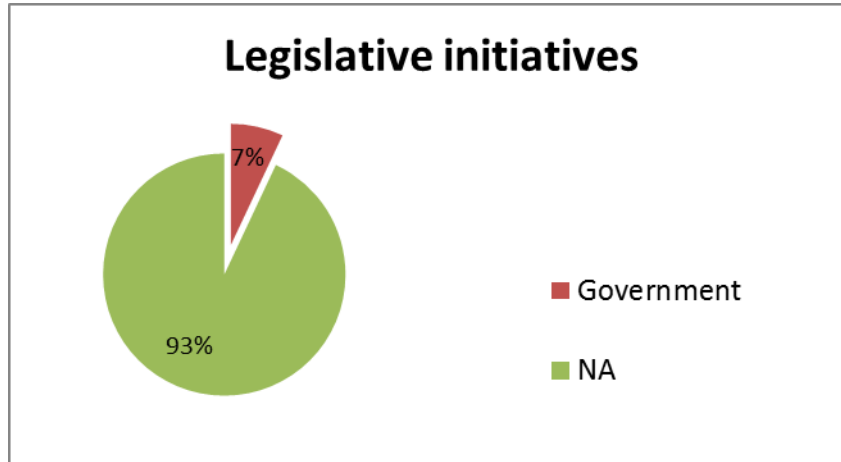
- Over the session the most (5) sittings were held by 4 out of 12 NA standing committees: the committees on economic affairs, social affairs, state and legal affairs and on regional administration and local self-government. 2 of the committees, on health and agriculture held only 2 sittings. The standing committee on European integration did not hold any sittings over the session.
- Only 5 out of 12 NA standing committees held parliamentary hearings: 7 committees did not initiate hearings failing the requirement set out in the NA Law on Rules of Procedure to hold at least 1 hearing during each session. In the previous sessions 4 committees had not met the requirement of the rules of procedure.
- The hearings on draft constitutional amendments were organized with a violation of the NA Rules of Procedure: they were held on September 4 whereas the 8th session started only on September 14 (The NA Rules of procedure state that the hearings shall be organized during the session).
- Over the 8th session the ad-hoc Ethics committee adopted only 1 decision regarding the only application received before the session.

Factions

- Heritage faction leader Ruben Hakobyan put down his mandate as the faction leader. The session ended without the faction electing a new leader.
- A replacement took place in the Republican faction: upon Arpine Hovhannisyan's appointment as the Minister of Justice Karen Bekaryan became a deputy by the decision of the Central Electoral Commission.
- Following the referendum on constitutional amendments the ANC, citing violations and rigged results across the board boycotted the NA sittings.
- The session had an extraordinary case of adjourning the sitting: in order to remove Zaruhi Postanjyan from the NA floor while she was protecting her right to make a speech the NA Vice-President stopped the sitting announcing a break.

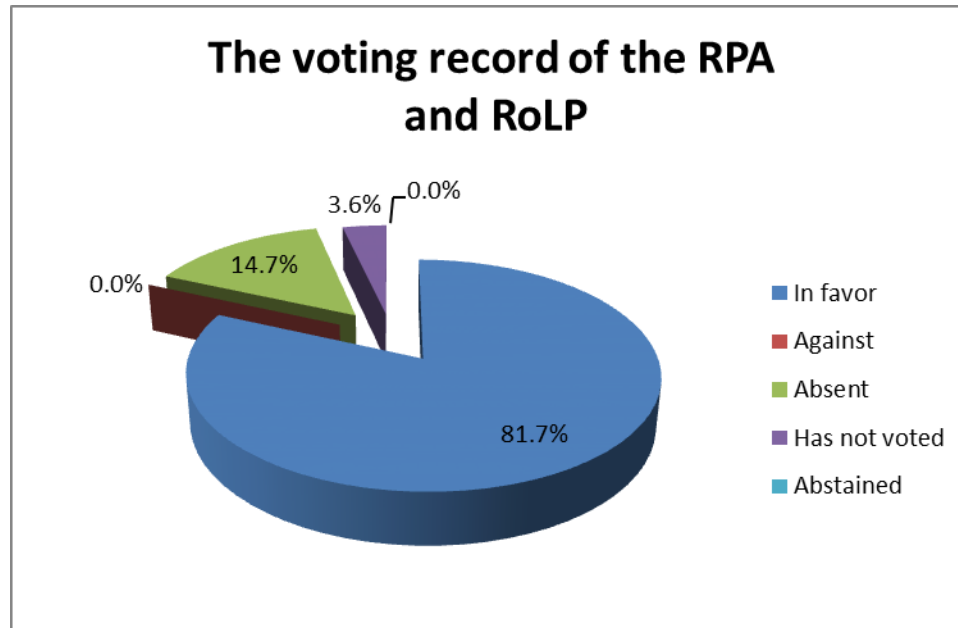
Tendencies or behind the figures

Figure 1.



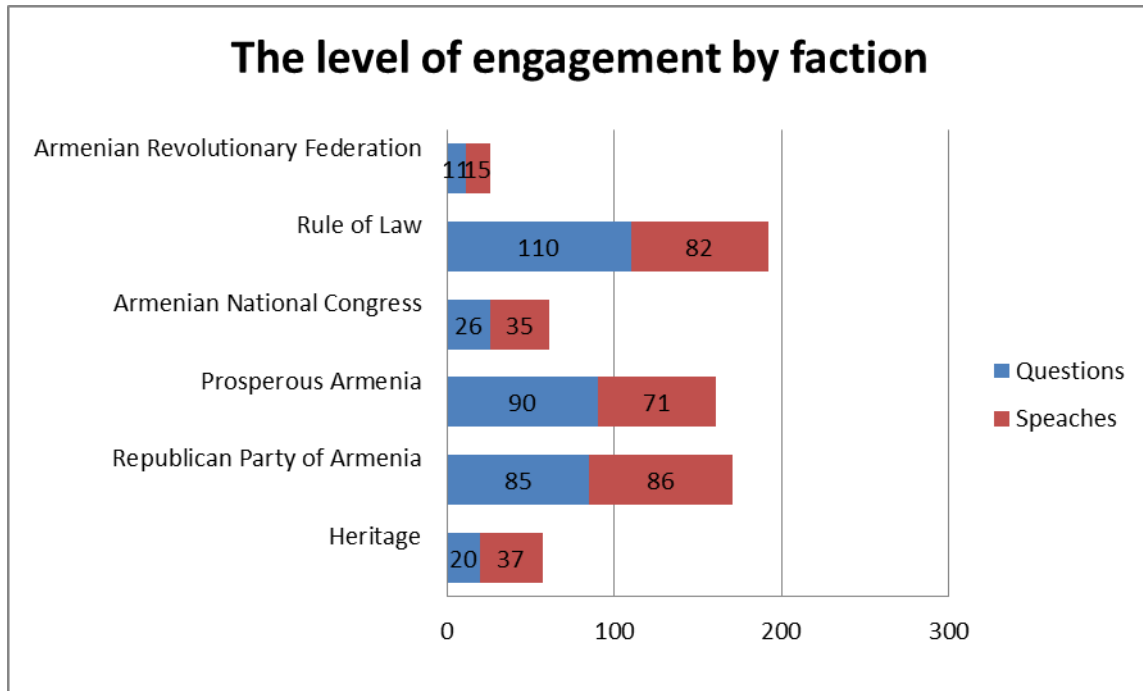
- The level of proactiveness of the parliament in law-making work has decreased compared to the previous session. During the NA 8th session the NA-Government ratio with regard to legislative initiatives was 7/93 and 10/90 in the previous one.

Figure 2.



In the 8th session of the National Assembly of the 5th convocation the parliamentary majority, the Republican Party had an unprecedented low figure for votes against. The 70 deputies of the faction all together voted 6580 times and with the exception of 2 “against” and 1 “abstained” votes the rest are votes in favor (Sukias Avetisyan and Arakel Movsisyan voted against the amendments to the Law on Food Safety proposed by RoLP deputies, the only deputy abstaining from the vote is Vardan Ayvazyan).

Figure 3.



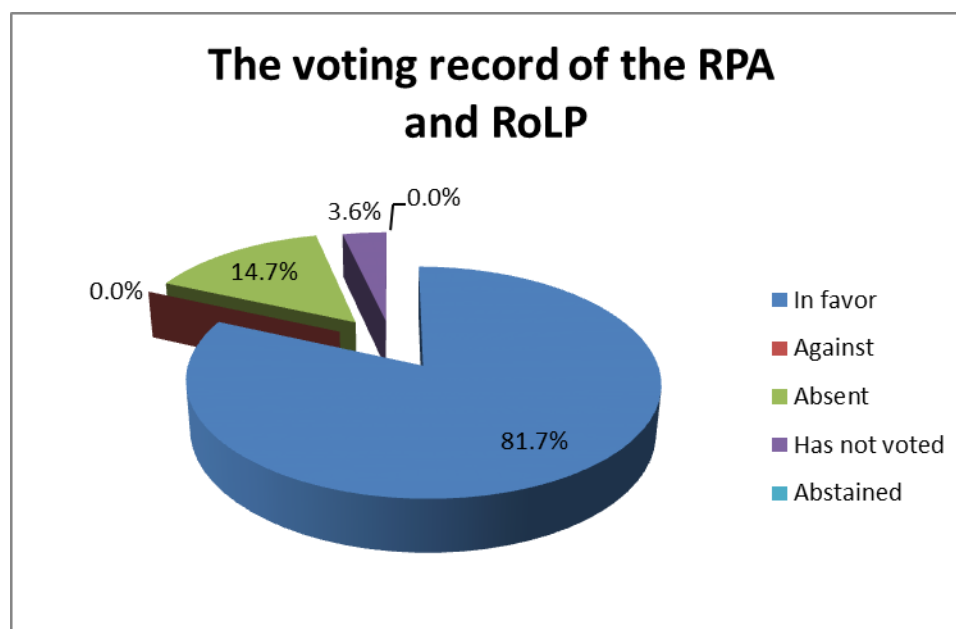
- Based on the statistics of questions and speeches the highest figure in the period reviewed belongs to the RoLP (192 questions and speeches) and Republican (171 questions and speeches) factions and ARF has the lowest number (26 questions and speeches). However, if we adjust these numbers based on the size of the factions, it will turn out that on average each deputy from RPA, the largest NA faction asked questions or made speeches twice, from ARF 5 times, from PAP 7 times, from ANC 8 times, from Heritage 14 times and 38 times from the RoLP.
- Compared with the previous session the overall level of engagement of the parliament has declined: over the legislative discussions during the 8th session 694 questions and speeches in total were presented compared with 877 during the previous one.
- The number of “silent” deputies has not changed: 67 out of 131 deputies did not participate in the discussion of the draft laws. This figure for the previous session was 74 deputies. In RPA 51 out of 70 deputies did not ask questions and did not make speeches, in PAP 23 out of 33.
- According to ParliamentMonitoring.am statistics over the 8th session the faction with the most votes in favor is the RPA and “Heritage” is the one with the most votes against. The ARF abstained the most and the ANC was absent the most (the faction boycotted the final four-day sittings of the 8th session and the following extraordinary session), and the PAP is the one that did not vote the most.
- Gagik Tsarukyan remains the top absentee of the 8th session. He did not attend any sittings. The 14 deputies with the most votes in favor are from the RPA. They voted in favor of all the drafts during the session-that is 94 times for 94 votes. The deputy with the most votes against is Nikol Pashinyan from ANC, and Artsvik Minasyan was the one who abstained the most. By the number of questions and speeches RoLP faction deputy Hovhannes Margaryan was the most active. The ARF faction deputy Artsvik Minasyan remains at the top of the list of ten most active deputies of all 8 sessions of the National Assembly of the 5th convocation.
- 5 deputies-Gagik Tsarukyan (PAP), Hayk Khachatryan (PAP), Vartan Oskanian (PAP), Karo Karapetyan (PAP) and Ashot Aghababyan (RPA) were absent for over half of the votes taken during the 8th session. More than half of the registered absences were recognized by the NA President as having a valid excuse.

NA FACTIONS

Proactiveness, level of engagement

The Republican faction

Over the 8th session of the National Assembly of the 5th convocation the RPA authored 6 legislative initiatives. 3 of them were adopted in full. One of the adopted laws was coauthored by PAP, ARF and Heritage factions. The RPA has 1 draft authored in the 8th session that is not included on the agenda yet. Another 2 drafts authored by the RPA, 1 jointly with the PAP, is included in the agenda of the four-day sittings.



According to parliamentmonitoring.am website statistics during the 8th session:

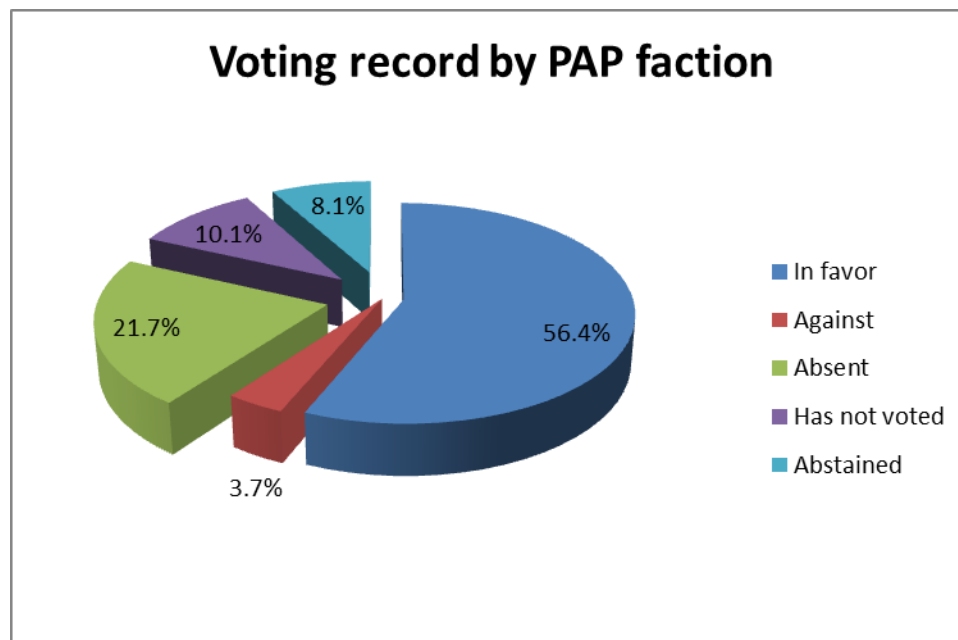
RPA faction deputy with the most questions asked (20) and speeches made (13) is Khosrov Harutyunyan. 14 Republicans have recorded the highest figure for votes in favor-94. They have only two deputies who voted against albeit only once, Arakel Movsisyan and Sukias Avetisyan. The only deputy who abstained from the vote during the session (1 instance) is Vardan Ayvazyan. Mher Sedrakyan did not vote the most (51) and Ashot Aghababyan was absent the most (91).

The list of top ten deputies who voted in favor the most over the 5th convocation of the NA has exclusively RPA members with Razmik Zohrabyan heading the list. The RPA is not represented in the lists of top ten deputies who voted against and abstained the most. The list of top ten absentees has 2 RPA members- Karen Karapetyan and Ashot Aghababyan, and the

only RPA member represented in the list of top ten most active deputies is Khosrov Harutyunyan.

The Prosperous Armenia faction

Over the 8th session of the National Assembly of the 5th convocation the PAP authored 13 legislative initiatives. 3 of them were adopted in full. 2 of them are co-authored with other factions. The PAP has 8 legislative initiatives authored in the 8th session but not included on the agenda. 1 was submitted by the faction jointly with the Heritage. 2 initiatives authored by PAP are included on the session agenda. They were written jointly with other factions.



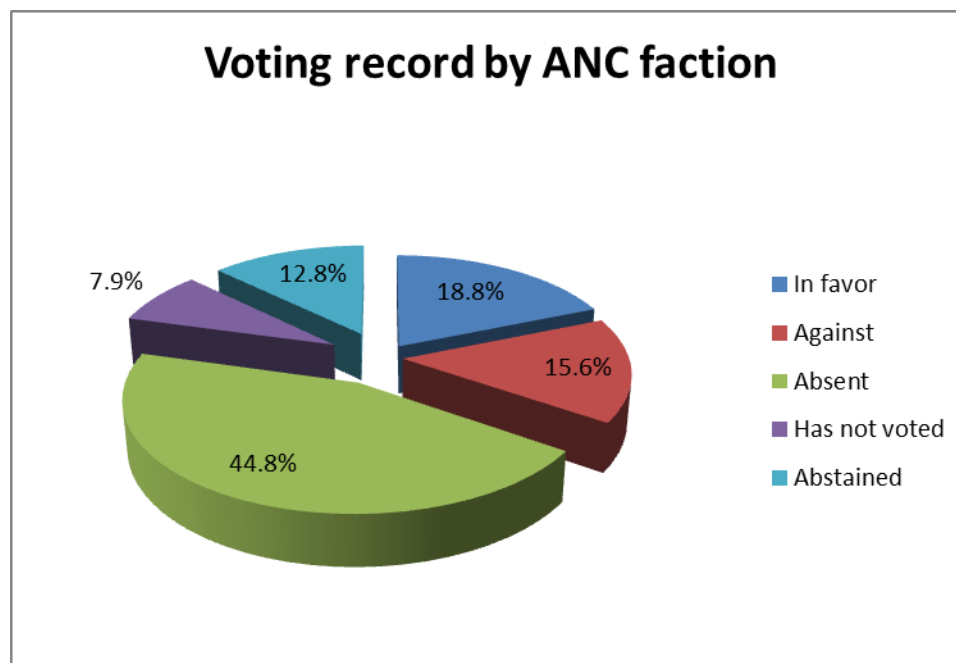
According to parliamentmonitoring.am website statistics during the 8th session:

Mikayel Melkumyan is the PAP faction deputy who asked questions (23) and made speeches (24) the most. Bazmaser Arakelyan voted in favor the most (89). Vahe Hovhannisyan abstained the most (26) and Karo Karapetyan did not vote the most (33). Tigran Urikhanyan voted against the most (32) and Gagik Tsarukyan was the top absentee of the faction (94 times).

Tsarukyan heads the list of top ten absentees over the 5th convocation. The list includes another 4 PAP deputies. The list of those who voted in favor the most does not have any PAP members with only Tigran Urikhanyan from PAP ending the list of top ten deputies voting against the most. 3 PAP members are included in the list of top ten deputies who abstained the most and the list of top ten most active deputies has only Mikayel Melkumyan from PAP.

Armenian National Congress faction

Over the 8th session of the National Assembly of the 5th convocation the ANC faction authored 2 drafts. One of them written jointly with the PAP, RoLP, ARF and Heritage factions is on the session agenda. The inclusion of the other one, a draft authored by Nikol Pashinyan on the session agenda was postponed for up to 1 year.



According to parliamentmonitoring.am website statistics during the 8th session:

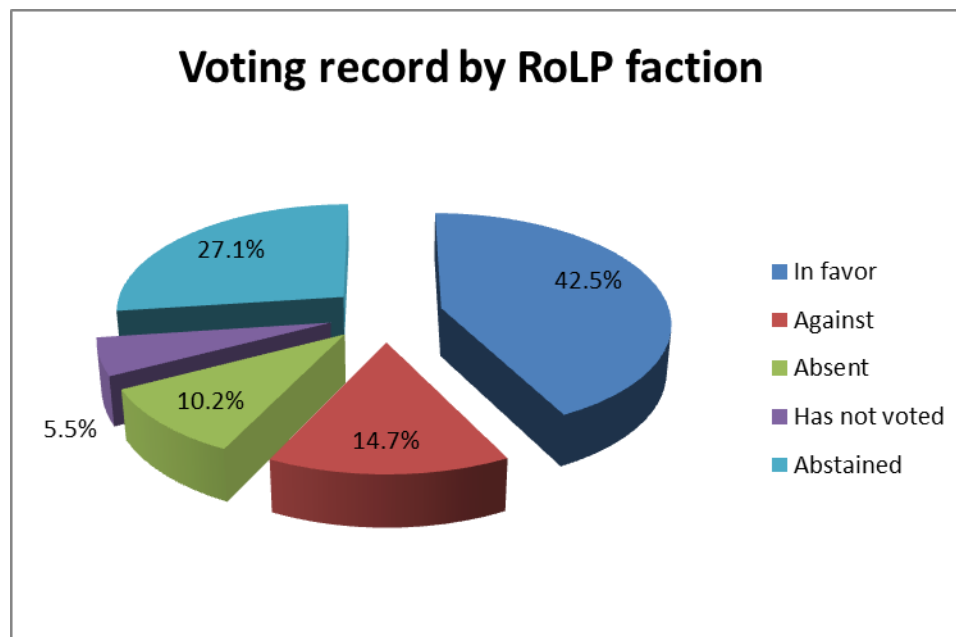
ANC faction deputy who voted in favor (34) and against (55) the most is Nikol Pashinyan. Lyudmila Sargsyan abstained the most (21 instances). Aram Manukyan was the top absentee (61 times). Levon Zurabyan made speeches (8) and asked questions (6) the most during the session.

The ANC faction is not represented in the list of top ten deputies who voted in favor the most throughout the 5th convocation. The list of top ten deputies voting against the most is headed by Nikol Pashinyan and the list has another 3 ANC deputies. The only ANC member present in the list of top ten deputies abstaining from the vote the most is Lyudmila Sargsyan. The list of top ten most active deputies has two ANC members (Hrant Bagratyan, Gagik Jhangiryan).

Rule of Law faction

Over the 8th session of the National Assembly of the 5th convocation the RoLP faction authored 13 draft laws. 2 of them were adopted with 1 written jointly with the PAP. Inclusion of 8

drafts authored by the RoLP faction was postponed for up to 1 year. The RoLP has 2 drafts on the session agenda authored in the same period.



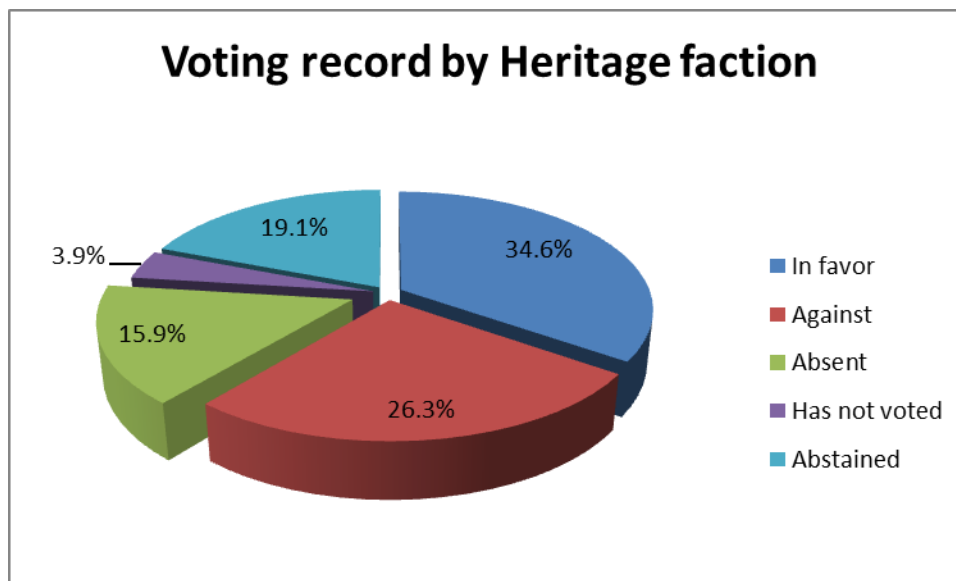
According to parliamentmonitoring.am website statistics during the 8th session:

RoLP faction deputy who voted in favor (43) the most is Ishkhan Khachatryan, while Heghine Bisharyan voted against the most (16). Hovhannes Margaryan is the deputy who was absent (17), did not vote (9), asked questions (39) and made speeches (31) the most. Mher Shahgeldyan abstained the most (27).

The RoLP is not represented in the lists of top ten deputies who were absent, voted in favor, against or abstained the most over the 5th convocation. Mher Shahgeldyan and Hovhannes Margaryan from RoLP are in the list of top ten most active deputies.

Heritage faction

Over the 8th session of the National Assembly of the 5th convocation the Heritage faction authored 9 draft laws. The only one adopted is jointly authored by the RPA, ARF and PAP. 4 draft laws written over the session, at that 1 coauthored with PAP, are not included on the agenda yet. Another 4 drafts authored in the same period are on the agenda with 3 of them authored by Tevan Poghosyan.



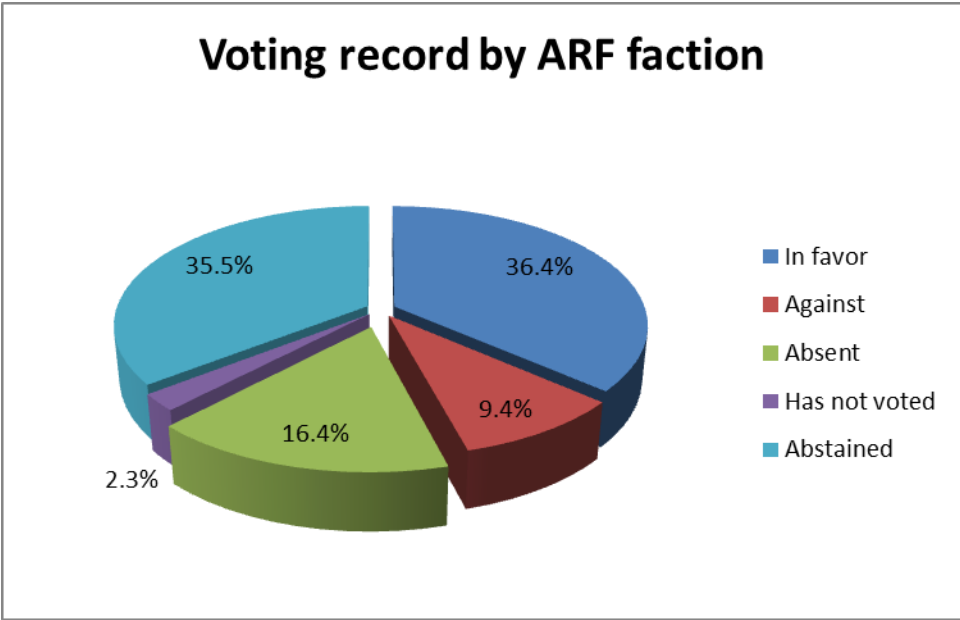
According to parliamentmonitoring.am website statistics during the 8th session:

Aleksandr Arzumanyan is the Heritage faction deputy who voted in favor (39) and abstained (27) the most with Rubik Hakobyan not voting the most (12). Zaruhi Postanjyan voted against the most (40) and is also the faction deputy who made speeches the most (16). Tevan Poghosyan was absent the most (28) and asked questions the most (15).

Tevan Poghosyan is also the only Heritage representative included in the list of top ten most active deputies over the 5th convocation. The lists of top ten absentees and deputies voting in favor the most have no faction members. The list of those who abstained the most includes only Aleksandr Arzumanyan while the list of top ten deputies voting against the most has 4 Heritage members.

Armenian Revolutionary Federation faction

Over the 8th session of the National Assembly of the 5th convocation the ARF faction authored only 2 draft laws, both with other factions. One of them was adopted and the other was included on the agenda of the session. The faction does not have drafts authored during the session that are not included on the agenda.



According to parliamentmonitoring.am website statistics during the 8th session:

ARF faction deputy who voted in favor (43 instances) and was absent the most (52) is Armen Babayan and the one who did not vote the most (4 instances) is Aghvan Vardanyan. Artsvik Minasyan is the deputy who abstained (39 instances), asked questions (9) and made speeches the most (11).

Artsvik Minasyan also heads the lists of top ten most active deputies of the 5th convocation and the list of deputies who have abstained from the vote the most. The latter has 5 ARF members. The only representative of the faction in the list of top ten deputies who have voted against the most is again Artsvik Minasyan. The list of top ten absentees has ARF member Armen Babayan and the list of top ten deputies who have voted in favor the most does not have any ARF members.

THE ISSUE OF ABSENCES IN THE 8TH SESSION

Note: According to the summary letter provided by the NA Public Relations and Mass media Relations department 5 deputies were absent from over half of the 120 votes taken during the 8th session of the National Assembly of the 5th convocation (the NA data include also votes on registration and approval of agenda unlike the parliamentmonitoring.am website statistics, which is built without these figures and is based on the votes on draft laws, agreements and other documents only).

5 top absentees of the session are deputies Gagik Tsarukyan (PAP), Hayk Khachatryan (PAP), Vartan Oskanian (PAP), Karo Karapetyan (PAP), Ashot Aghababyan (RPA).

According to this letter the NA President has considered excusable 61 out of Hayk Khachatryan's 103 absences, 34 out of Vartan Oskanian's 89 absences, 44 out of Karo Karapetyan's 72 absences. The exact number of absences considered excusable for the two top absentees Gagik Tsarukyan (120 instances) and Ashot Aghababyan (114 instances) is not mentioned. The response was that over half of these absences were recognized excusable.

The nontransparent procedure for exercising the NA President's exclusive authority in recognizing the deputies' absence from over one half of the votes held during the sessions excusable or not does not allow us to determine the extent to which the absences of these deputies can qualify as excusable under Article 99 Part 3 of the law on Rules of procedure of the National Assembly. It is also unclear how legitimate the NA President's decisions are in recognizing a certain part of absences as excusable. In practice, the public does not have the opportunity to get comprehensive information on the work of the NA President and its elected deputies and perform public oversight.

A deputy's absence from the vote is considered to have a valid excuse if:

- a) within four days of recovery of his/her competence s/he submits a certificate on disability to the NA Chief of staff;
 - a.1) s/he is on a duty trip for the National Assembly,
 - a.2) s/he has been arrested or detained as restraint but he/she was not incarcerated or decision to stop his/her criminal prosecution was adopted;
- b) prior to his/her absence or within four days of the vote, s/he officially notifies the National Assembly President about the reason for absence and the latter finds it to have a valid excuse.
- c) within 15 days of the end of the regular session, s/he officially notifies the National Assembly President about the reason for absence and the latter finds it to have a valid excuse.
- d) s/he has made a statement according to the procedure on refusing to participate in a particular vote
- e) prior to the vote the leader or the secretary of the faction or the deputy group has made a statement at the sitting of the National Assembly about the refusal of all the faction or group members registered for the sitting to participate in the vote.

NA Rules of Procedure, Article 99.3

Judging from the nature of legal grounds rendering the absences excusable, none of them (with the exception of Subpoint 1 concerning the possible disability of the deputy) entail supporting documents and letters that would raise the issue of confidentiality, since they are in line with the freedom of information principles and the criteria set by the RA Law on Freedom of information for public information. The NA Rules of procedure require that in case of recognizing the absences excusable, specific deadlines for submission of supporting documents, letters, written or verbal explanations are met. However the fact that the grounds for NA President's decisions are not made public does not allow us to understand to which extent the requirements set by law are honored.

These problems are due to the incompleteness of the procedure for recognizing the absences excusable along with generalization of NA President's authority and duties on one hand and non-existence of culture of accountability on the other.

During the 8th session of the National Assembly of the 5th convocation 116 laws were adopted (47 legislative initiatives), 4 of them being “mother” laws and 112 amendments and additions to the operating laws. Only 8 of the adopted laws are authored by NA deputies. The government is the author of 107 of them and the remaining 1 is a joint initiative of the Government and the NA.

The parliament has recorded an all-time high ratio of laws adopted over the regular and extraordinary sessions. It adopted 4 times more laws over 4 extraordinary sittings and 1 session than over the entire regular session. So, 90 out of 112 legislative amendments were adopted over the extraordinary sittings and the session.

The majority of the adopted laws referred to the economic and financial-credit area (68). 12 amendments were made to the state-legal, 6 to the defense area and 5 to the social sphere legislation.

Efficiency of law-making work

During the 8th session of the National Assembly of the 5th convocation 4 extraordinary sittings were held and another extraordinary session was held after the end of the session. 4 of them were initiated by the government.

Statistics shows that the parliament has not only virtually surrendered its authority to initiate extraordinary sittings/sessions to the executive but has also shifted the focus of law-making work from regular sessions to extraordinary sittings and sessions. If during the NA 6th session only half of the laws were adopted over extraordinary sittings/sessions and more than half in the 7th session, this session had 4 times more laws adopted through the NA extraordinary procedure than over all four-day sittings together.

Over the extraordinary sittings/sessions the parliamentary majority mainly adopted the approach of exhausting the agenda in the time set rather than holding a content-based discussion of the draft laws. This mode often did not allow the NA the optimal time to get to the real aims of the submitted laws, look into the potential risks, as well as work on and

present recommendation for improvement of the draft laws. As a result, the government managed to ensure the hasty adoption of the draft laws with their desired solutions and without the NA's serious resistance.

The government was always the author of the vast majority of the laws adopted over all the sessions of the 5th convocation. But the 8th session recorded one of the lowest indicators of proactiveness of the parliament with the NA-Government ratio of legislative initiatives being 7/93. Interestingly, no draft law discussed over the session was declined in the vote by the parliament, and the RPA faction practically never voted against or abstained.

The mentioned facts lead us to infer that the impact of the parliament on the legislative policy is reduced to the minimum. Along with this, the unquestioning support demonstrated towards the government in all matters has become even stronger.

Tendencies towards passive and inconsistent approaches, persisting position of rejection

From the draft laws authored by the opposition factions only those submitted together with the RPA were adopted over the session. In the previous session the NA majority usually demonstrated an attitude of rejection specifically towards the legislative or political initiatives by the opposition declining in a vote the drafts put up for discussion, at times not allowing them to be included on the agenda of the session or the four-day sittings. The seeming loyalty of the parliamentary majority in the 8th session, however, is not driven by the desire to build a constructive relationship or develop a culture of compromise. It is due to the virtual lack of initiatives of key significance by the opposition factions that would lead to political debates.

The inclusion of 5 draft laws authored by opposition factions and independent deputies on the agenda of the 8th session was postponed for up to 1 year and 1 was declined in a vote. The latter was a draft proposing amendments to the RA Electoral Code and the law on Identification cards authored by PAP faction member Tigran Urikhanyan. This was an alternative draft since the RPA faction deputies had come up with a similar initiative.

Note: The legislative package proposing amendments to the RA Electoral Code and the law on Identification cards was adopted on November 11, 2015 in an extraordinary sitting initiated by the government with 74 votes in favor, 13 against and 18 abstained. The RPA and ARF factions voted in favor and the ANC, RoLP and Heritage voted against. 7 deputies from the PAP faction voted in favor, 1 against and 18 abstained.

The amendments were necessitated by the Referendum on Constitutional Amendments set for December 6. They sought to ensure the right of over 180,000 RA citizens to vote with identification cards. 558,401 RA citizens holding a passport also have ID cards and 182,391 only have identification cards. The operating law restricted the right to vote with the card. Ahead of the referendum on Constitutional amendments the authors of the package proposed making legislative amendments ensuring the right of 182,391 citizens to vote with an identification card.

PAP deputy Tigran Urikhanyan had also authored amendments ensuring the exercise of the right to vote with ID cards. He also proposed installing special equipment recording the participation in the election, which would record the participation in the election for cardholders and would prevent from double voting.

Declining the alternative draft and adopting its own legislative package the parliamentary majority did not anyhow address the demand to restore public trust toward the electoral system. The concerns over the objectivity of the voting in the referendum and the possibility of multiple voting with identification cards were left unsettled.

During the 8th session the political minority did not initiate any extraordinary sittings or sessions and only once exercised its right to initiate discussion on an issue considered extraordinary as stated by the NA Rules of procedure. The author of the initiative was Tevan Poghoyan, secretary of the Heritage faction.

Note: On November 18, 2015 the parliament with 97 votes in favor, 3 against and 4 abstained, adopted the draft proposing amendments to the Law on National Assembly Rules of Procedure in the first reading. It was submitted by the author of the draft, Heritage faction secretary Tevan Poghosyan and discussed following the procedure for an extraordinary matter. (Over the second four-day sitting of any session the NA Rules of Procedure give an opportunity to the opposition factions to discuss a draft law or a decision declared extraordinary.) This was the only initiative during the session that was declared extraordinary by the deputy and discussed following this procedure. The RPA, The PAP, ARF and Heritage voted in favor of the draft. The ANC was against and the RoLP abstained.

It proposed revising the procedure for deputies to pose questions to the government. In particular, it proposed limiting the number of written questions asked over the NA-Government Q&A session, as well as cutting the time for presenting the question to the Government and responding to it. The rationale was that this legislative amendment would lead to a larger number of questions heard over a sitting and would solve the issue of the often unjustified abundance of written questions (according to the operating procedure the written questions are asked first followed by the oral ones).

The conduct of the political minority during the session was marked not only with passive attitude but a certain inconsistency. This was demonstrated, in particular, during the discussion over the amendments proposed by the government to the law on Excise tax.

Note: The draft proposing amendments to the Law on Excise Tax passed only the first reading in the extraordinary session held in June of 2015 despite the fact that the Government had declared it urgent suggesting that the parliament adopt it following a 24-hour procedure. However, as requested by the deputies the second reading of the draft was moved to the fall session on the grounds that the contentious matters require further discussion.

The amendments proposed increasing by 10 % the excise tax rate for tobacco and alcoholic beverages, as well as setting an excise tax for a new good, compressed natural gas used as fuel for vehicles.

As argued by the government the excise tax rates were not indexed according to the rise in the prices of these goods in the recent years. The aim of the amendments was also the harmonization of excise tax rates in Armenia and EAEU member states (Excise tax rates for tobacco and alcoholic beverages set in EAEU member states are several times higher than those existing in Armenia).

In June the draft passed the first reading with 53 votes in favor, 37 against and 1 abstained. Only the Republican faction voted in favor. The draft passed the second reading with 86 votes in favor, 25 against and 1 abstained. The additional votes in favor were secured by the PAP faction, despite the fact that the draft was presented for the second reading without significant changes and in the time between the two readings no recommendations were presented by NA deputies, including PAP.

In fact, the only political initiative of the non-ruling factions came from the ANC. Following the referendum on constitutional amendments held on December 6, 2015. The ANC, citing across-the-board violations and falsified results, boycotted the final four-day sittings of the NA and the following extraordinary session. This however did not have any effect and did not elicit any response, since they did not secure the support from other oppositional factions.

The ANC did not manage to garner enough support while collecting signatures for contesting the outcome of the referendum in the Constitutional Court either. Instead of 27 signatures needed the ANC could secure hardly 20 signatures in support of the initiative.

CONSTITUTIONAL AMENDMENTS

The parliament's involvement and its role: expert review

The 8th session of the National Assembly started with the discussion of the question of approving the referendum to be held on draft RA Constitutional amendments proposed by the RA President. The draft envisaged a parliamentary system of government as opposed to the semi-presidential one and a transition to a restructured judicial system. The document presented to the parliament was essentially a new draft Constitution rather than draft constitutional amendments.

The National Assembly got involved in this process of vital importance from institutional standpoint only at the final stage, almost two years after the start and only three months before the actual referendum.

Formally, in the context of the constitutional amendments the NA performed its constitutional function following the procedures set by the RA Constitution and the laws on Referendum and on the National Assembly Rules of Procedure. According to Article 111 of the operating RA Constitution in case the President of the Republic brings up the initiative, the National Assembly — within a three-month period after receiving the draft Constitution or the draft amendments thereto — shall put to vote the question on putting the draft to referendum.

Note: The parliament adopted the decision on approving the holding of a referendum on draft RA Constitutional amendments on October 5, 2015 with 104 votes in favor, 10 against and 3 abstained.

The RA President had officially sent the draft constitutional amendments to the NA on August 21, the very next day of getting approved in the final sitting of the specialized committee on constitutional reform by the RA President. On September 4 the NA standing committee on state and legal affairs initiated a parliamentary hearing and a week later it suggested that the NA include the draft Constitution with a favorable conclusion on the agenda of the NA four-day sittings. On September 15, the very first four-day sittings of the NA 8th session started with the discussion of the question. On September 18 the deputies initiated an NA extraordinary session to complete the discussion. On October 5, the very first day of the next four-day sittings the vote was held according to the NA Rules of Procedure, immediately following the final speech of the representative of the RA President on the changes made to the draft based on the recommendations presented by the deputies and factions. Three days later, on October 8 the RA President signed the decision to hold a referendum on constitutional amendments on December 6.

Timewise the total NA involvement in the process of constitutional amendments was 1.5 months. For the country's legislative, representative and political body this period of involvement is obviously short given the exceptional significance of the process in terms of the change in the key guidelines for public administration and societal relationships.

Such a disproportionate role of the parliament in the process is objectively due to the nature of legal regulations of the current Constitution, as well as due to the fact that the NA Rules of Procedure do not envisage additional discussions over the draft revised based on the deputies' potential recommendations.

However, the subjective factor is also at work here given the policy of the NA majority of restricting the opportunities for the parliament to affect the content of the draft and leaving the NA the role of simply ratifying the political decision already made. The obvious haste demonstrated in the course of organization of the discussions over the draft and the vote attests to this.

According to Clause 4 of Article 76 of the RA Law on the Rules of Procedure of the National Assembly the NA President shall circulate the draft Constitution or draft amendments to it within two days of its receipt. It took 17 working days at the most from the day the document was circulated in the parliament to the adoption of the decision approving it in a vote. It should be noted that by Article 111 of the RA Constitution the parliament was given a reasonable term of three months in order to exercise its constitutional right to vote on the draft, review this voluminous document and make changes to it. So it turns out that the NA President and the political majority chose not to use about half of the time without providing any valid grounds for this approach.

On October 2, the last working day of the week, the specialized committee on constitutional amendments had submitted to the parliament the final version revised based on the recommendations deemed acceptable. It was distributed to the deputies and factions quite late not allowing the deputies enough time to go over the new text of the main law before the vote. This attests to the haste as well as the fact that the input of the parliament to the development of the new content of the Constitution appears to be merely symbolic. Apart from this, the final version of the draft did not have the accompanying document on recommendations which is usually attached to offer the deputies an overview of the changes made and give them the opportunity to be guided by them during the vote. Admittedly, the inclusion of this document is not required by law and is traditionally used in law-making work for advisory and explanatory purposes.

The features of the parliamentary discussions over constitutional amendments

The draft constitutional amendments were actually discussed in the parliamentary formats for 6 days only: 1 day was dedicated to parliamentary hearings, on another day it was discussed in the NA standing committee on State and Legal affairs (prompted by the procedure for including it on

the agenda of the four-day sittings) and for only 4 days it was discussed in the plenary sittings. This way it is hardly possible to hold a well-rounded content-based serious discussion over a fundamental and quite voluminous draft. However, this was necessary for several key reasons:

- The NA had to approve holding of a referendum on the presented draft constitutional amendments envisaging transition to a totally new system not tested in Armenia. This fact required an in-depth and responsible discussion of potential risks and consequences from all sides. Given its volume (220 articles versus 117 of the current Constitution), and the fact that it envisaged new constitutional concepts and new mechanisms for checks and balances of the branches of government as well as radical changes in the judicial system it was imperative to hold a detailed and thorough discussion over each part of the document.
- The highly polarized public and political sentiments with regard to the aims of the initiative of the constitutional amendments and differing opinions on the content of the draft implied holding proper and lengthy parliamentary discussions. This would on one hand lead to a broader public consensus over the draft and on the other hand, contribute to an adequate environment of public trust towards the objectivity of both the initiative and the upcoming referendum.

The study of the conceptual framework of the Constitutional amendments, the course of working on the draft as well as the discussions inside and outside the parliament allow us to make the following observations:

- The legislature was not represented in the specialized committee on constitutional reform by the RA President while the committee had officials representing both the executive and the judiciary. On October 15, 2014 the specialized committee finally presented the conceptual framework envisaging a parliamentary system of government, and in this context it should have been only natural and appropriate to engage a representative from one of the two key entities of this system of government, the parliament, in the work of designing the draft.
- The NA standing committee on state and legal affairs had ensured public and professional representation and debate atmosphere in the organized parliamentary hearings. However, the hearings essentially turned out to be an end in themselves. They were meant to present predominantly the opinions of the specialized committee on the substance and aims of the constitutional amendments as well as communicate the inevitability of the political decision to hold a referendum on the draft. Despite the exceptional nature of the matter the NA standing committee on state and legal affairs did not use the opportunity given by Clause 6 of Article 32 of the Law on NA Rules of Procedure to publish materials outlining the results of the hearings (recommendations, conclusions, notes and other information) on the NA official website. This would help the public and the political and professional circles taking part in the hearings to assess the effectiveness of the hearings and determine the extent to which their recommendations and remarks made over the hearings would be taken into account in the course of further improvement of the draft.

- All the parliamentary political forces approached the presented draft constitutional amendments with initial positions and preconceptions clarified over the pre-parliamentary debates following the stage-by-stage publication of the document. This led to an overly politicized nature of discussions in the parliament based more on the political, than legal component of the draft. Instead of focusing on the content of the draft and potential risks the political forces, both supporting and opposing the draft and the initiative of constitutional amendments, mostly promoted their own biased positions. The parliamentary discussions did not lead to a public and political consensus over the draft. Neither did it dispel the existing concerns over the motivation of the RA President to initiate a process of constitutional amendments changing the system of state government and failed to eliminate the grounds for suspicion solidified over time.

- Despite the haste demonstrated by the political majority in approving the question of putting the draft up for a referendum some NA deputies and factions, however, were able to present to the specialized committee packages proposing amendments and additions to the draft. A part of them was included in the final version of the draft constitutional amendments that was voted on. They contributed to the elimination and reformulation of many concepts which would leave room for dispute and misinterpretations. The RPA, PAP, RoLP, ARF factions, certain deputies from ANC and Heritage factions as well as independent deputy Edmon Marukyan presented recommendations. It should be noted that in this regard the effectiveness of the engagement of the parliamentarians was due to the readiness of these interested forces to hold pre-parliamentary content-based discussions.

- amendments made to the proposed new draft owing to this partial influence of the parliament mainly concern the election of the RA President, the appointments to certain key posts by the RA President, the mechanisms for forming the mandatory stable majority as the results of the elections of the RA National Assembly, the procedure for electing the NA leadership, the scope of Articles that shall be amended solely through a referendum, the nomination of the RA Prime Minister, forming of the RA government, the rights of citizens to hold outdoor spontaneous assemblies, the scope of entities entitled to participate in the elections of the local bodies of self-government, protection of property rights, the duty to testify for close relatives, etc.

The Constitutional amendments agenda in the election programs: mess of contradictions

The RPA and ARF factions in full and the majority of the PAP and Heritage faction deputies voted in favor of the draft constitutional amendments (even though the Heritage party was against the draft and constitutional amendments in general). The ANC faction, almost in full (6 out of 7 deputies), two deputies from the RoLP, one from Heritage and one from the PAP faction opposed the draft.

With the exception of the ARF and ANC, the voting by other factions was not only inconsistent with their ideological approaches and election programs but in some cases was in direct conflict with them.

ARF. For the party the transition to the parliamentary system of government and the formation of the parliament solely through the proportional electoral system have both been conceptual. They are fully reflected in the ARF election program, which also sets out the expected results of these changes in the long run: improved functions of NA oversight and checks and balances, stronger role of the political opposition in the parliament, radical review of the electoral legislation, etc. The ARF is the only NA force demonstrating an unfaltering programmatic approach in its support of the constitutional amendments.

Heritage. The transition to the parliamentary system of government through the Constitutional amendments and setting a 100% proportional electoral system for the NA has been one of the pillars of Heritage faction's election program. The program views it as a way to get rid of the “desire, disastrous one for the nation, to stay in power at all cost and reproduce it” and the practice of “oligarchic, President-centered” government. But when the conceptual framework of the constitutional amendments presented by the specialized committee proposed shifting to the parliamentary model of government, the “Heritage” went against its programmatic position and stood next to those political forces which viewed the initiative of constitutional amendments by the RA President as a hidden aspiration to guarantee the “reproduction” of the current leadership. This position however was largely due to preconceived lack of trust towards the objectivity of the constitutional referendum and towards provision of justice. The conflict between the conceptual approaches and the conduct of the “Heritage” manifested itself in the divided voting of the faction and led to a further division within the faction.

PAP. The election program is built on raising the efficiency of the public administration, ensuring the sustainability of the reforms implemented in this area. This shows that in fact PAP did not have radical constitutional amendments and the transition to the parliamentary system on its agenda. Starting from 2012 parliamentary elections the PAP has several times changed its position on this matter. Before the parliamentary elections the party supported the idea of transition to the parliamentary model of government, but did not include it in the election program. In the period preceding the removal of Gagik Tsarukyan from the posts of the leader of PAP and the parliamentary faction in February of 2015, the PAP strongly opposed the initiative by the leadership to shift to the parliamentary system, but following the February events they became unconditional supporters of the draft. The PAP explained this shift by the changed political situation. This confirms the situation-driven approach exhibited by PAP when it came to supporting the referendum on the draft.

RoLP. Up to the end of the vote on draft constitutional amendments the RoLP did not have a clearly formulated position. Their election program does not set forth any issue of constitutional

amendments or change in the system of government. It does present, albeit without suggesting directions and mechanisms, the idea of radical reforms in order to ensure independence and objectivity of the judiciary. Despite the critical view of the draft constitutional amendments proposed by the President, during the vote the RoLP did not ignore the fact that some of their recommendations were accepted. As a result, the faction's votes were divided between “against” and “abstained”, demonstrating its “floating” position regarding the constitutional amendments.

ANC. ANC is the only parliamentary force expressing its clear opposition to the initiative of the Constitutional amendments. At the core of their position are the diametrically opposite ideology and its support of the semi-presidential system of government, apart from its attitude towards the current leadership. However viewing the RA President's initiative as a long-sighted plan of “reproduction” of the current political power and citing this as the reason for its opposition to it the ANC refused to take part in the content-based discussions over the constitutional amendments giving up the opportunity to advocate the need for the semi-presidential model of government over debates as well as elaborate on the potential risks of the transitions proposed by the new Constitution.

RPA. Before 2013 the RPA had not been a proponent of changing the model of government and making constitutional amendments for that purpose. But in its fundamental program it did consider the possibility of changing the government model “at different stages of development of the state” depending on the aims and the efficiency of implementation of programs, always adhering to the principles of rule of law, national security and ensuring development. This said, up to the second half of 2013 the RPA declined both the proposals on transition to parliamentary government model and to the fully proportional electoral system in forming the NA. It cited the insufficient preparedness of the political field and the risks of making such critical changes given the growing challenges from the outside. However when the specialized committee on constitutional reform voiced these recommendations and the RA President publicly supported it, the RPA diametrically changed its position becoming a proponent of the parliamentary government model, even though none of the obstacles cited in the past had lost their relevance. In fact, the RPA election program is anchored only in existing constitutional regulations and the principle of maintaining the current system of government. From this standpoint the RPA was not guided by its election program in the scope of the constitutional referendum and did not explain the reasons during the parliamentary discussions for such a sharp change in the political line.

NA OVERSIGHT

The oversight function vested in the parliament by the Constitution arises from the principle of separation of branches of government and checks and balances and is also a key tool for applying the public oversight and accountability principles. It has the authority to approve programs of state bodies, their performance reports and communications through discussions or take them into consideration, ratify international conventions, intergovernmental treaties and agreements and appoint individuals to senior posts through elections. So, the parliament has the constitutional authority to have and express its position in all important state matters.

Over the 8th session as well, the National Assembly performed one of its key functions, which is oversight, not fully and with low efficiency. The gaps and faults customary for the parliament once again manifested themselves confirming that the NA oversight function remains significantly ineffective and has a largely formal nature.

Note: During the 8th session the NA discussed and took into consideration the communications by the National Commission on Television and Radio and the Public Television and Radio board on the work performed in 2014. Exercising its authority stated in Article 83.2 of the Constitution to elect half of the NCTR members for a 6-year term the National Assembly by secret ballot filled the vacant positions of members of the RA National Commission on Television and Radio.

The parliament demonstrated great interest towards the report presented by the RA Defender of Human Rights Karen Andreasyan on the “Work of the RA Defender of Human Rights and violations of human rights and fundamental freedoms in the country in 2014” which it took into consideration. Over one four-day sitting it heard one after another the performance report of the RA Central Bank 2014 monetary policy program and approved the monetary policy program of the Central Bank for 2015 while this approval was long overdue.

Over the extraordinary session the parliament first discussed and took into consideration the 2014 annual performance report of Control Chamber and then issued a decision approving the annual work plan of the Control Chamber for 2016.

The NA ratified 18 international treaties. 14 of those were adopted over extraordinary sittings/sessions. The majority of them are loan agreements.

The tradition of non-compliance with timelines persists

The practice of the National Assembly to hold belated discussions often with the violation of timelines for annual work plans, performance reports and communications presented by various state bodies firmly carries on.

The performance report on the Central Bank 2014 monetary policy program, the communications by NCTR and PTRB on their work in 2014, the report of the Defender of Human Rights for 2014 and the performance report of the Control Chamber in 2014 were presented to the parliament only in the second half of 2015. Moreover, the latter was discussed in an extraordinary session held at the end of the year.

This flawed tradition deprives the parliament of the opportunity to promptly and efficiently respond to the noted issues, express a political and professional judgment on them and employ mechanisms for holding those responsible for the identified faults and gaps to account. It should be noted that often the performance reports, communications and even programs spark heated discussions in the parliament. During these discussions serious professional opinions are also voiced, however all of this is nullified by the political posture of the parliamentary majority of “tolerating everything” and “agreeing with everything”. This attitude of the political majority seriously undermines the authority vested in the legislature by the Constitution to have any impact on the important processes and solution of problems in the life of the country.

During the session the NA did not hear the 2016 annual work plans for the RA State commission on protection of economic competition and the RA Public Services Regulatory Commission altogether, included on the agenda of four-day sittings since October. Citing the principle of independence of these bodies as the basis for their work the legislation prescribes the procedure for merely publicizing their annual programs in the NA and in this situation the compliance with the reasonable timelines set for “publicizing” them becomes essential. That said, it is already clear that these programs will be discussed in the NA plenary sitting only over the next session in the best case scenario. This way the parliament will stay true to its working style of putting off the discussion of programs, and “familiarizing” itself with the substance of these programs only during the reporting year.

It is becoming par for the course for the parliament to discuss the performance reports and programs simultaneously. At the beginning of the 8th session one after the other the parliament discussed the monetary policy program performance report of the RA Central Bank for 2014 and the monetary policy program for 2015. Since the discussion for the work plan for 2015 was held in October, that is to say actually at the end of the year, substance-wise it turned into a report in the context of the monetary policy planning for 2016.

At the end of the session the RA Control Chamber's 2014 annual performance report and Work plan for 2016 were also discussed at the same time and both with the violation of set timelines for discussion. According to the Clause 1 of Article 101 of the law on the NA Rules of

procedure the report of the Control Chamber on the results of its oversight is presented for discussion in the National Assembly no later than three months after the end of the fiscal year and discussed by the National Assembly by the end of the given regular session. The NA should have discussed the Control Chamber performance report before the end of the first session of the year following the fiscal year but it was discussed only in the second half of the year. According to Clause 2 of Article 100 of the same law the discussion of the Control Chamber annual work plan should have started during the first four-day sitting in December whereas the discussions started and ended over the extraordinary session.

The RA legislation actually contributes to such a state of affairs since in many cases it does not entail any legal action turning the presentation of performance reports or communications into a merely formal procedure. The existing gap in the Law on NA Rules of Procedure is no less critical. While setting the timelines and procedures for presentation of these documents to the parliament and putting them into circulation the law does not regulate the timelines for their discussion leaving it at the discretion of the NA President or the chairperson of the sittings.

Decreased significance of the Control Chamber performance reports

The performance report of the Control Chamber for 2014 and the work plan for 2016 were presented in the National Assembly over the last extraordinary session, when an atmosphere of promptly exhausting the session agenda prevailed in the parliament.

Only one speech was made in the plenary session regarding the 2016 work plan when in fact it is approved by an NA decision. We can state that the Control Chamber work plan for 2016 was adopted without any content-based discussion despite the fact that the document envisaged 11 studies to be performed in the areas of defense, transport and communication, education and science, and with regard to a number of programs implemented by the district offices of social services, the financial-budgetary activity of other departments, and the use of funds within loan and grant programs extended to the RA government.

The key speaker was asked only two questions by deputies and 4 speeches were made regarding the work performed by the Control Chamber in 2014 and its findings, which mainly stressed the fact that compared with the previous performance reports the information on the inappropriate use of public funds in this one was too general. The Head of the Control Chamber attempted to explain this with the fact of bringing the report methodology into compliance with international standards. However, he did not provide any explanation as to how this methodology could prevent forming a more concrete and complete picture of the checks and studies.

Interestingly all the speeches regarding the report were made by the representatives of the non-ruling forces whereas in the previous years and particularly over the discussion of the Control Chamber's scandalous report of 2012 the NA political majority was noticeably active.

Such a sharp change in the conduct of the latter as well as the “new methodology” employed by the chamber leads us to infer that the practical significance of the report by the Control Chamber is being reduced along with the overall formalization of the Control Chamber's oversight function. The NA political majority is willingly giving up the pivotal constitutional right of the parliament to perform oversight of the Control Chamber and the executive.

So the question of strengthening the NA role in initiating legal action against the violations and abuses found by Control Chamber or expressing political feedback is not on the agenda either.

The report of the Defender of Human Rights

The report on the “Work of the RA Defender of Human Rights and violations of human rights and fundamental freedoms in the country in 2014” was submitted to the parliament in March of 2015 but discussed in October. The NA started the discussion on the document over the four-day sitting of October 5 and ended it during the next four days sitting of October 26. The Defender was asked 16 questions and 25 speeches were made.

The discussion statistics shows a special treatment of the report by the parliamentary forces and deputies. This was perhaps due to the research performed by the Defender of Human Rights and the volume of identified cases of human rights violations.

The report comprising 510 pages covered 25 state and local self-government bodies and 167 violations of human rights by their officials. They concerned the political, socio-economic rights of the citizens as well as rights related to the military, women, children, people with disabilities, refugees, environmental protection and discrimination. The Defender covered almost all areas and departments indicating not only the violations but also the legislative gaps that lead to restricted rights. 60 out of over 150 systemic issues presented in the report, in the defender’s opinion, required legislative regulation.

The report was prepared by the methodology designed back in 2013 when the cases of violation of human right are classified by specific areas and the violations and presentation of recommendations arising from this are categorized. This methodology implies a more targeted approach to the violations noted and specifies the scope of responsible departments and officials.

Despite the fact that this methodology for preparing the annual reports enjoyed the approval of all NA factions and political forces without exception in 2012-13, the parliamentary

discussions particularly over the performance report of the Defender of Human Rights for 2014 confirm once again that the parliament tends to have a negative perception of the work of the Defender and its authorities as well as of the reports presented.

The analysis of the parliamentary discussions allows us to state that the Defender of Human Rights is practically the main target of criticism from personal and institutional standpoints (at times getting highly personal and accompanied by violations of moral norms) as opposed to the institutions and officials bearing the responsibility for the violation of rights presented in the report.

The overall impression is that there is an attempt to conceal the existing and recurring violations, as well as their cause-and-effect relationships and make the Defender of Human Rights a target for attacks overlooking the factor of responsibility for the violations noted.

In his reports the Defender of Human Rights, based on concrete cases and the nature of violations, also presents recommendations for elimination of reasons for some of them associated with legislative solutions and directly linked to the authority of the deputies to come up with legislative initiatives. These recommendations are discussed the least and hardly ever drive the deputies to create draft laws that would in some way respond to the reports.

During the discussion of the report on the “Work of the RA Defender of Human Rights and violations of human rights and fundamental freedoms in the country in 2014” the tendency to demonstrate a team and political approach became more pronounced. The NA majority was trying to back up the state and local government bodies and officials in breach based on the principle of representing the same political team therefore sharing the political responsibility with them. So this is the rationale for ignoring the recommendations for legislative amendments contained in the report that would reduce the number of cases of violations of human rights.

Note on loans: The NA ratified 18 international agreements over the 8th session. 14 of them were adopted over extraordinary sittings-sessions. Most of the them are loan agreements with the total amount exceeding half a billion dollars (492.8 million dollars and 10 million euros).

According to the agreements the loans were mainly attracted at 2-3% interest rate and in some cases higher, 4-5%. One of the agreements, the “Caucasus electric transmission network” financial agreement stipulates that the interest rate shall be set for each tranche separately.

The funds to be received by 2 of the agreements (\$300 million from Eurasian Development Bank and 50 million dollars from IBRD) are meant for replenishment of budgetary funds and stabilization of the dram.

By the way, the Constitutional Court has mentioned the issue of targeted use, transparency and efficiency for 2 of the loans (Yerevan municipal lighting program of 4 million dollars and Infrastructure and rural finance support program of 25 million dollars) in its conclusions.

More specifically the conclusion notes with regard to the second agreement, ”RA constitutional court states that over the past 15 years numerous loan and grant programs were implemented for the development of rural communities in the Republic of Armenia... The Constitutional Court upon the study of... explanations presented by the official representative of the RA President...finds that the evidence for targeted use of loan programs is still not presented and the level of transparency of the program implementation is low.

PARLIAMENTARY HEARINGS

Impact and effectiveness

The format of the parliamentary hearings ensures public participation and impact on the legislative work. The hearings aim to ensure effective communication among the parliament, other state structures as well as public and expert circles in the course of design of laws regulating matters of public importance and their underlying principles.

The concept of hearings is regulated by the Law on NA Rules of Procedure and the rules of procedure of NA standing committees which state that organizations of hearings is one of the

functions of the standing committees. The Law on NA Rules of Procedure states that the standing committees are required to hold at least 1 hearing over each session on issues relevant to their designated areas. The committees are free to not only select topics for discussion and decide the procedure for hearings including whether it is open or closed, but also to initiate joint hearings.

Note: During the 8th session of the NA of the 5th convocation only 5 out of the 12 standing committees fulfilled the requirement of the Law on NA Rules of Procedure to hold at least one parliamentary hearing during the session. Only 1 out of 5, the standing committee on Defense, Security and Internal affairs held 2 hearings, on issues of Pre-draft preparation in Armenia and organization of the draft and ensuring of technical safety.

The committees on state and legal, health, science and education and financial-credit affairs held 1 hearing each.

7 of the committees- the standing committees on social, economic, agriculture and environment, regional administration and local self-government, European integration and protection of human rights and public affairs did not hold any hearings over the session.

The standing committee on foreign affairs did not hold hearings over the 8th session although it adopted a decision on holding hearings. On November 19 the committee decided to hold parliamentary hearings on the topic of the “Eastern vector of Foreign Policy” on December 18 but they did not take place since the National Assembly was in an extraordinary session on those days, and Article 32 of the Law on NA Rules of Procedure states that the day of holding the hearings shall not coincide with that of an NA sitting. According to the same article the committee holds hearings only during the regular session. Therefore, when the committee decided to hold hearings on December 18, it was already in breach since according to the NA session schedule the regular session ends on December 10.

The hearings on draft Constitutional amendments organized by the standing committee on state and legal affairs were also held with violations of the Law on NA Rules of Procedure. They were held on September 4, whereas the 8th session started on September 14.

The observation of the hearings shows that the NA 8th session was characterized not only by controversial realities of the previous session, but with new negative manifestations as well.

First, there is a clear tendency for standing committees to disregard the requirement of holding hearings, thus circumventing the imperative requirement of the Law on NA Rules of Procedure. If during the previous 7th NA session 8 out of 12 committees had adhered to the requirement to hold at least one hearing as stated in Article 32 of the Rules of procedure, during the 8th session only 5 did. This demonstrates that the standing committees ignore the importance of this instrument and reduce its significance rendering the organization of hearings an end in itself.

2 of the parliamentary hearings were actually initiated with violation of timelines set by the NA Rules of Procedure. One of them was the hearings held on September 4, that is before the start of the regular session, by the NA state and legal affairs standing committee on draft Constitutional amendments. The other one was the decision of November 19 by the NA Foreign affairs standing committee to hold parliamentary hearings on the topic of the “Eastern vector of Foreign Policy” on December 18, after the end of the regular session which did not take place. The standing committee on state and legal affairs made a violation being virtually unable to organize the hearing during the session. The parliamentary discussions over the draft Constitution started concurrently with the session, from the very first four-day sittings. The failure of the NA Foreign Affairs committee to fulfil the requirements of timeline was perhaps due to the lack of sound knowledge and disregard of the relevant regulations set out in the law on Rules of procedure.

It is noteworthy, that the legislation does not envisage any responsibility or legal consequence for violation of either the requirement to hold hearings or the requirement to organize them during the regular session. This leads to the lack of consistency on the committees’ part in performing this function.

Note: The hearings organized by the standing committee on Health, motherhood and childhood issues during the session concerned the issues of transplantation of human organs and tissues. The RA law on Transplantation of human organs and tissues was adopted in 2002 but as argued by the professionals of the field it does not work in practice since the subordinate legislation arising from it has not been designed. The hearings did not result in any legislative initiatives.

Over the hearings organized by the standing committee on Science, education, culture, youth and sport the revised version of the draft law on Museums and RA museum collections and the draft amendments proposed to the RA Code of Administrative violations were discussed. The hearings, however, did not lead to any legislative initiative presented to the NA. The museum field continues operating without legislative regulations.

The standing committee on financial-credit and budgetary affairs held 1 parliamentary hearing on the topic of “The process of introduction of program budgeting in the RA”

The practical and applied significance of the hearings held remains unclear making it overall hard to understand the aims of initiating them and the rationale behind their timing. Despite the fact of violation of timelines, the hearings initiated by the NA state and legal affairs committee on the draft constitutional amendments were especially justified in terms of timeliness.

In other cases, despite the importance of the topics, the committees have not initially specified the concrete aims of holding hearings or how they see this tool serve the development of infrastructure in the given areas and help the practical application of the legislation adopted. Without these essential clarifications the hearings turn into a platform of mere exchange of information and inconsequential events to inform the NA about the current situation and issues.

Article 32 of the Law on NA Rules of Procedure focuses solely on the matters of organization, procedure and notification of the hearings. The parts concerning the hearings in the Rules of procedure of the committees are almost identical to the clauses in the NA Rules of procedure. At the most, they include a procedure on preparing summary materials for the hearings (transcripts of speeches presented on the topic of the hearings, suggestions, conclusions, notes and other information) and publicizing them as proposed by the committee and agreed with

the President of the National Assembly. In fact, the final clause is not even included in all of the rules of procedures.

4 of the NA standing committees (on regional administration and local self-government, economic, state-legal and European integration) have not stated such a commitment in their Rules of procedure altogether. And the Rules of procedure of the standing committee on financial-credit and budgetary issues do not set a procedure for holding hearings altogether.

The NA standing committees avoid preparing or at least publicizing summary materials on the outcomes of the hearings although coming up with such materials is merely one and not the most effective way to increase the performance of the hearings.

NA ETHICS COMMITTEE

During the 8th session of the 5th convocation the ad-hoc Ethics Committee operated without a head for over 2 months. The only application reviewed during the session was received in the previous 7th session. It was taken in for review in September over the last sitting chaired by the RPA deputy Arpine Hovhannisyanyan. Following her appointment as the Minister of Justice and til November 26 when the new head was appointed, the committee held only 1 sitting. Another sitting was held chaired by PAP member Vahan Babayan (according to the NA Rules of procedure the members of largest NA opposition and non-opposition faction take turns in heading the committee. During the 8th session the Prosperous Armenia faction used the opportunity given to it by law as the largest oppositional faction).

Note: During the 8th session the ad-hoc Ethics Committee issued only 1 decision. The reviewed application concerned the NA deputy Arakel Movsisyan, who had made statements containing calls for violence and threats in an interview to a mass media representative. They were directed at those criticizing the family of Seyran Ohanyan, the Minister of Defense. The application came from the Vanadzor office of the Helsinki Civil Assembly. The committee was expected to issue a decision on the violation of the rules of ethics set out in Clause 2, Article 6.1 of the Rules of Procedure by the RA National Assembly deputy Arakel Movsisyan.

The committee ruled that deputy Arakel Movsisyan's statements made during an interview to one of the media were emotional, abstract and did not contain an actual threat to a specific person. At the same time, according to the committee deputy Arakel Movsisyan violated the ethics rule stated in point g) of Part 2 of Article 6.1 of the Rules of Procedure exhibiting conduct unbecoming a deputy.

The decision on Arakel Movsisyan's violation of the deputy's rules of ethics was not presented from the NA floor even though the Law on NA Rules of Procedure states that the head of the Ethics Committee publicizes the decisions and conclusions of the committee in the upcoming four-day sittings of the regular session of the National Assembly and then it is published on the official website of the National Assembly. The committee, as was basically the case in the past, simply distributed the decision to the deputies and posted it on the NA website.

Ethics Committee remains unnoticed...expert opinion

The reality that the NA Ethics Committee reviewed only one application and held only 3 sittings regarding it during the 8th session illustrates that it continues to have no impact on the conduct of the deputy, on the observation of the rules of ethics stated in Article 6.1 of the NA Law on Rules of Procedure, on their understanding and forming of traditions and culture.

Compared with the previous session, when the Ethics Committee did not review any applications and did not hold any sittings, the fact that during the 8th session the review of the 1 application was completed resulting in a conclusion could be viewed as a minor step forward if this had not been the case in the 6th session as well. For already 3 sessions the NA Ethics Committee has only one application taken in for review attesting to the persisting lack of trust towards the committee.

It is noteworthy that the NA deputies themselves still do not file applications to the Ethics Committee despite the multiple instances of potential violations of the ethics norms during the session (the session was rich in equivocal reactions of the NA President, and deputies representing the political majority to the speeches of certain oppositional deputies, such as those made by Zaruhi Postanjyan from the Heritage faction).

Another factor contributing to the indifference towards the work of the committee is the fact that its decisions and conclusions are publicized through distributing it to the deputies and posting it on the official website of the parliament without being read out from the NA floor. This is how they presented the only conclusion adopted by the committee regarding the NA deputy Arakel Movsisyan's statements containing calls for violence and threat.

Interestingly the Ethics Committee issues the second conclusion indicating a violation by the same deputy. Back in the 7th session upon review of the application regarding the RPA deputy Arakel Movsisyan's disrespectful expressions against the journalists during the discussions over the ratification of the “gas agreements” on December 13, 2013 the Ethics Committee had ruled that he had violated the norms of ethics. This conclusion was also simply distributed to the deputies and not read out.

This precedent illustrates the reality in which the conclusions by the committee are ignored by the deputies violating the rules of ethics and in no way impact their conduct. We have noted many times that the conclusions by the committee lack practical purpose and have no legal and disciplinary implications. So it turns out that the deputies can at any time easily violate the rules of ethics regardless of the number of times the committee will deem their conduct unethical and issue a decision on that.