



Բաց Հասարակության Հիմնադրամներ - Հայաստան

*Open Society Foundations-Armenia*

## Monitoring of the National Assembly

5<sup>th</sup> Convocation, 5<sup>th</sup> session

(03.02.2014 - 21.06.2014)

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## INTRODUCTION

Mandate NGO presents the findings of the monitoring of the work performed by the NA in the 5<sup>th</sup> session. The summary was prepared by putting together the journalistic observations, expert analyses and data generated by the statistical application of the *parliamentmonitoring.am* website.

The report contains 4 sections. The first section sums up the general tendencies and indicators of the parliament performance during the 5<sup>th</sup> session and presents information on legislative initiatives by NA factions and their level of engagement.

The *Legislation* section covers the monitoring results as the combined work of journalists and experts with regard to several of the legislative packages adopted over the spring session. For each legislative package we presented the course of parliamentary discussions, compared the positions expressed by the factions to their programmatic points, and the experts offered their opinions.

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 in terms of effectiveness of parliamentary discussions.

The fourth section sums up the results of the work performed by the Ethics Committee set up in the National Assembly of the 5<sup>th</sup> convocation.

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

**The expert team:** Gor Abrahamyan, Inga Zarafyan, Artak Zeynalyan, Vilen Khachatryan, Mesrop Harutyunyan

## 5<sup>th</sup> CONVOCAATION OF THE NA, 5<sup>th</sup> SESSION

### *Indicators or session in figures*

*The RA National Assembly of the 5th convocation held 7 four-day sessions during the 5th session. 2 extraordinary sessions were convened and two extraordinary sittings. 143 laws were adopted. 13 are mother laws and 130 are amendments and additions to the operating laws. Over half of the laws, 77, were adopted over the extraordinary sessions and 66 over the regular session.*

*The Government was the author of 136 laws adopted with only 7 authored by NA deputies. (The initiatives concerned regulations of the TV advertising, the order of presenting a communication to the National Assembly by the Prosecutor General, tax legislation).*

*54 of the adopted laws concerned the state and legal matters, 41 the socio-economic sector, 18 the defense, 14 the agriculture and another 14 the education.*

*The parliament discussed and turned down 5 legislative initiatives authored by the oppositional factions. 4 of them proposed setting up NA ad-hoc committees and 1 proposed amendments to the Election Code.*

*The National Assembly ratified 8 international agreements, accepted the objections and recommendations by the RA President on two laws adopted over the session (on Social Guarantees for persons holding a state post and On Constitutional Court)*

*The NA discussed 4 programs, 2 reports including the Program of the Government, 2013 State budget annual performance report, the report of the Central Bank on 2013 inflation and the 2014 monetary policy program, as well as the annual work plans for the PSRC and SCPEC.*

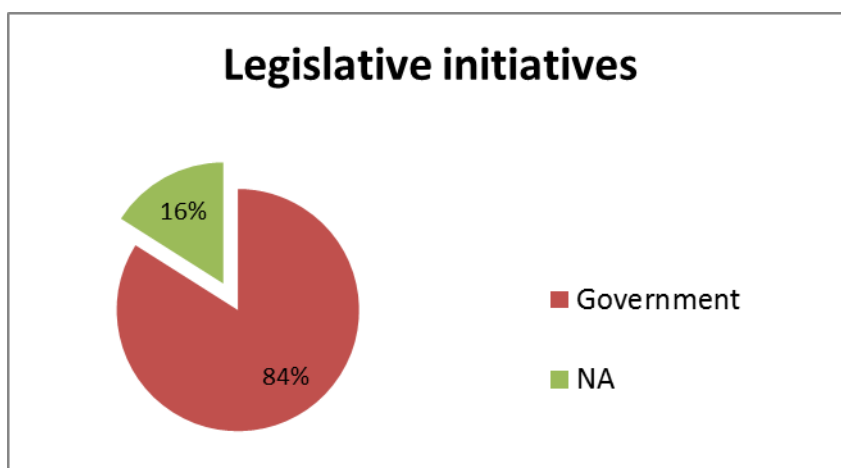
### Noteworthy facts

- An unprecedented situation in the history of the parliament emerged in the session: for the first time in twenty years the ruling majority is represented by only one political force, the Republican Party.
- The NA president changed. Following Hovik Abrahamyan's appointment as the Prime Minister the parliament elected Galoust Sahakyan, the RPA faction leader as the NA President.
- The Rule of Law faction for the second time in its history in the parliament declared its exit from the coalition and becoming an opposition.

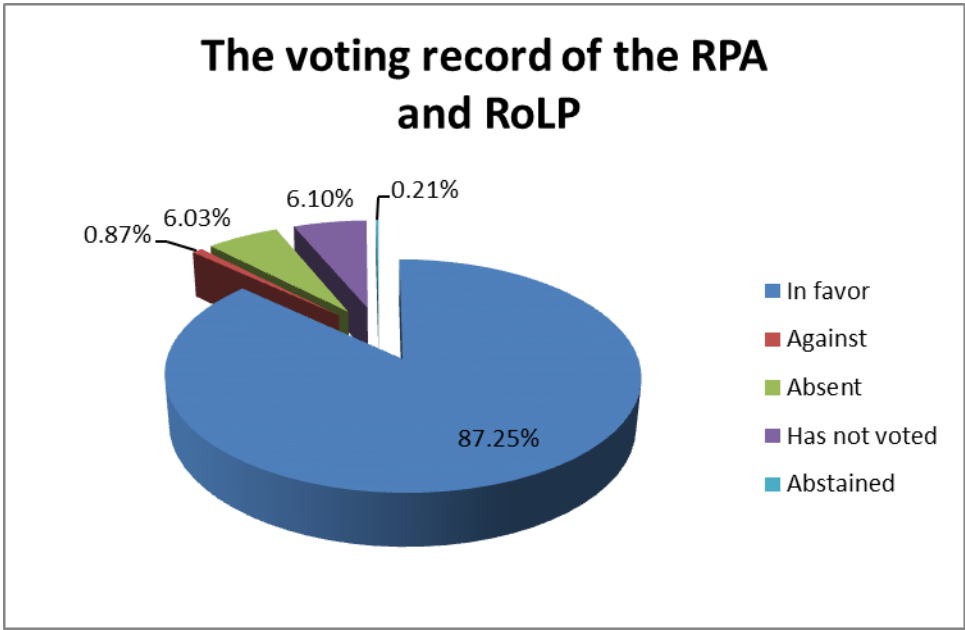
- Over the entire session the parliamentary minority acted based on one united platform in the format of a quartet, and at the end of the session signed a 12-point statement setting a deadline for the government to address the demands presented to the government.
- On the initiative of the RPA-RoLP coalition an ad-hoc committee studying the issues of the gas supply sector was set up. Prior to that the quartet's proposal on setting up such a committee had been turned down.
- The amendments submitted to the Law on Funded Pensions by the Government in the wake of the April 2 decision of the Constitutional Court that resonated with the public were adopted in a controversial vote.
- Over the session the order of setting up the counting committee changed twice leading to a nearly two-fold increase in the number of committee members thus securing the absolute majority of the RPA members.

### Tendencies or behind the figures

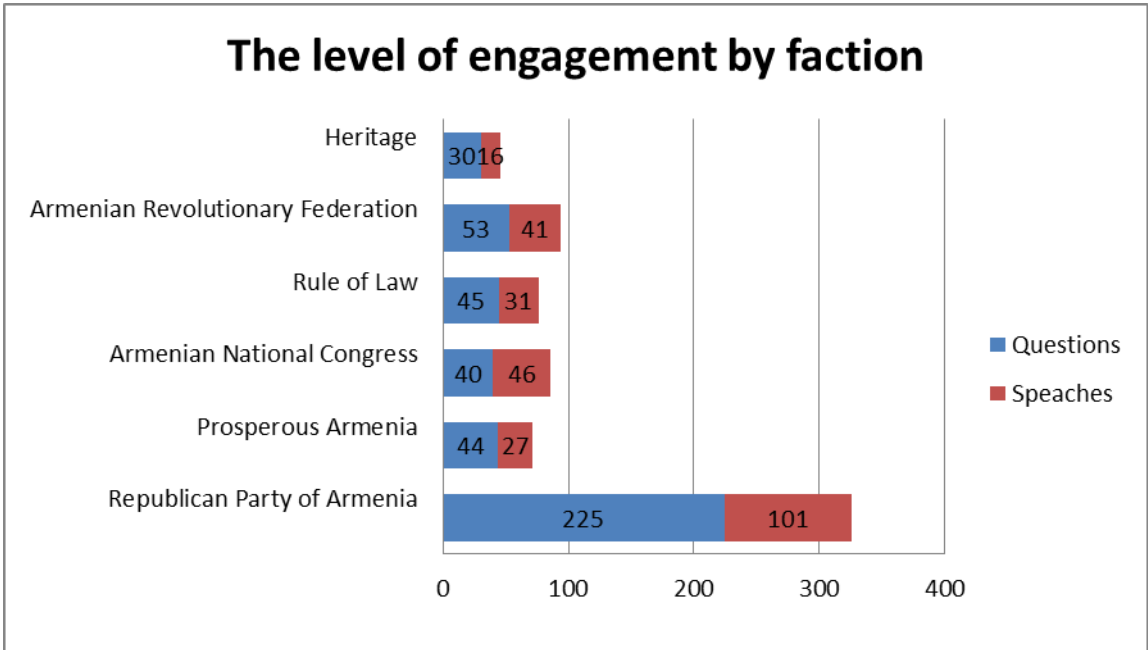
- In its lawmaking work the parliament recorded a lower level of proactiveness compared to the previous session. If in the 4<sup>th</sup> session the ratio of legislative initiatives by NA and Government was 87/13, this ratio for the 5<sup>th</sup> session it is 95/5.



- In the 5<sup>th</sup> session of the 5<sup>th</sup> convocation of the NA parliamentary majority, the RPA has adhered to its voting logic: as in the previous sessions the votes against are under 1% and concern solely the initiatives by the opposition.



- According to the statistics of *questions* and *speeches* in the period under review the RPA faction has recorded the highest indicator (225 questions and speeches), while “Heritage” has the lowest number (46 questions and speeches). But if we adjust this numbers based on the size of the factions, it will turn out that each deputy from the two largest Na factions, RPA and PAP asked questions or speeches on average 3 times, and deputies representing small faction deputies around 20 times. From this standpoint the idlest in the parliament during the spring session was PAP, with ANC being the most active.



- According to the *parliamentmonitoring.am* statistics the top absentee in the National Assembly of the 5<sup>th</sup> convocation is Gagik Tsarukyan, the PAP faction leader. RPA faction deputies

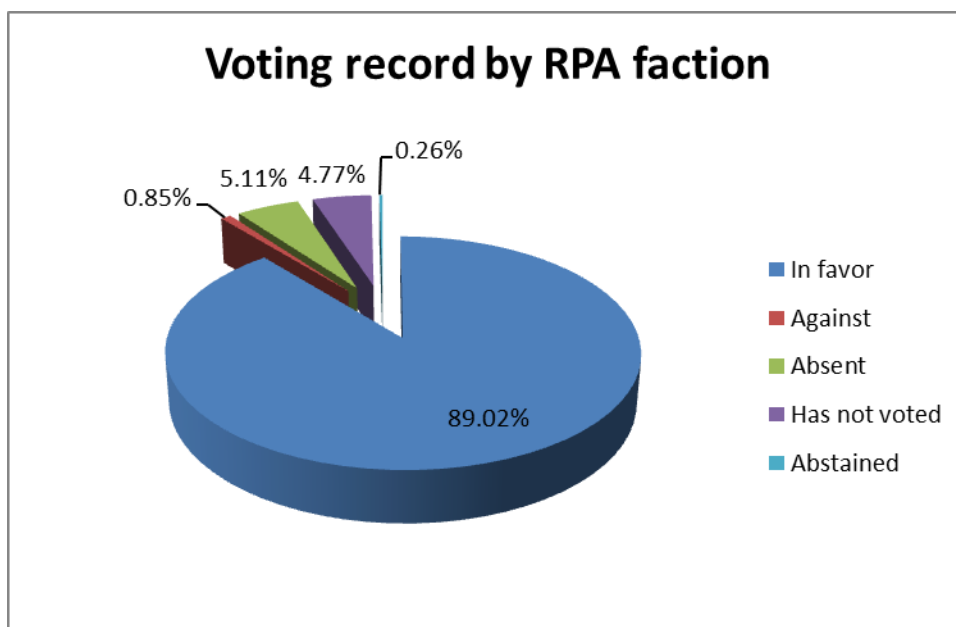
Razmik Zohrabyan and Hovhannes Sahakyan voted in favor the most. The lawmaker with the most votes against is Nikol Pashinyan and the most active is Artsvik Minasyan from ARF.

- According to the *parliamentmonitoring.am* statistics in the 5<sup>th</sup> session of the National Assembly of the 5<sup>th</sup> convocation around half of 131 deputies, that is 65 deputies did not ask any questions or make speeches in the discussions over legislative initiatives. In RPA and PAP factions “silent” deputies are over half. In RPA 36 out of 70, in PAP 23 out of 36.
- Over the 9 days of 2 extraordinary sessions initiated by the government the parliament adopted more laws than over 5 months of the entire spring session. 77 laws out of 143 were adopted in extraordinary sessions.
- The government considered over 60 draft laws to be urgent, and the parliament decided to hold the subsequent readings for all of them through a 24-hour regime. The government did not anyhow disclose the reasons for declaring them urgent and the parliament in its turn did not ask for explanations.
- Over 30 draft laws making up several hundred pages in total started out on the first day of the June extraordinary session of the parliament (June 18) and were adopted laws already by the 4<sup>th</sup> day. The most contentious legislative packages, on funded pensions (11 draft laws) and environment (3 draft laws), passed all 3 readings in a record time, 1 day.
- During the 5<sup>th</sup> session of the 5<sup>th</sup> convocation the ad-hoc committee on Ethics has held 7 sittings discussing only 3 applications: Sinjar Yezidi National Union and Yezidi National Committee NGOs’ application versus RPA deputy Manvel Badeyan, an application by journalists Grisha Balasanyan, Anna Yeghiazaryan, Sargis Khandanyan and Hakob Karapetyan versus RPA member Arakel Movsisyan and Nikol Pashinyan’s application that concerned the deputy himself. For 2 out of 3 applications reviewed the committee has made a decision to discontinue their review. And only for 1 case did it rule that the deputy Arakel Movsisyan had violated the norms of ethics.
- The level of public trust towards the Ethics Committee that started its work in the parliament of the 5<sup>th</sup> convocation is gradually declining judging by the number of applications received. Over the second session the committee received 13 applications, in the third session 6, in the fourth session 2, and the fifth had 3 applications.

## NA factions: proactiveness, level of engagement

- 1 draft law bearing the signatures of all the parliamentary factions (on the Procedure for presentation of communication by the Prosecutor General to the National Assembly) was adopted in the session. The authors of all 7 laws initiated by the deputies and adopted over the session are the Republicans, alone or with other factions.
- No draft laws authored by the non-ruling quartet was adopted over the session. 5 initiatives discussed in the plenary and declined in a vote were included on the agenda through an extraordinary procedure. Over 20 draft laws of the quartet either did not receive a favorable conclusion by the lead committees not making it on the agenda or were postponed.
- The draft decision by PAP, ARF, ANC and “Heritage” factions on setting up an ad-hoc committee studying the issues around the gas supply sector was discussed in the plenary through an extraordinary procedure and declined.

**RPA.** During the 5th session of the National Assembly of the 5th convocation the RPA authored 17 legislative initiatives: 7 of them were adopted in full. The RPA authored 4 of the laws adopted together with other forces. 4 legislative initiatives are on the session agenda, the inclusion of 6 drafts was postponed for up to 1 year.



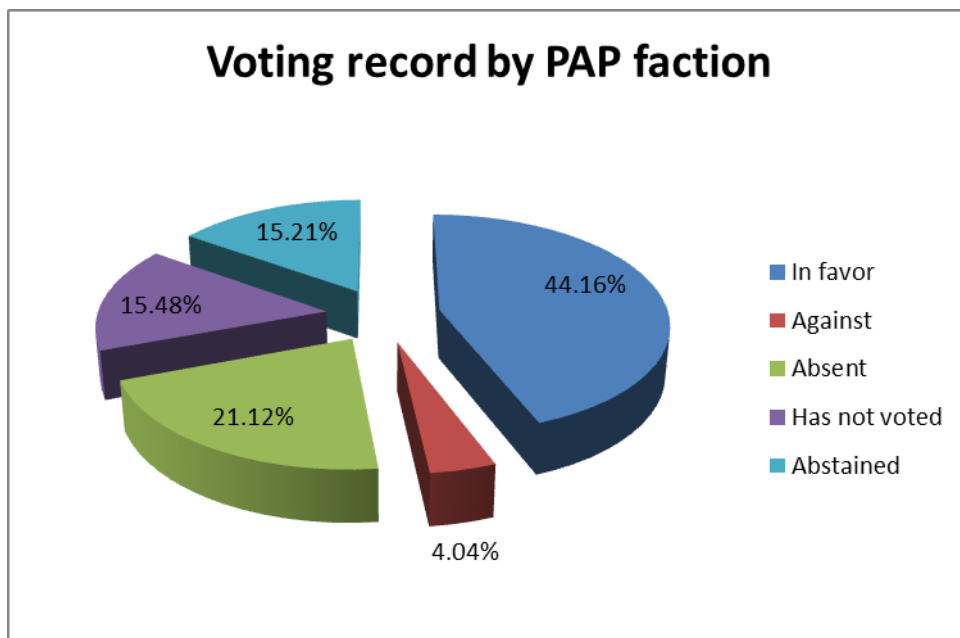
According to *parliamentmonitoring.am* website statistics during the 5<sup>th</sup> session



The RPA faction deputy with the most questions asked and speeches made is Khosrov Harutyunyan (30 questions, 22 speeches). The number of the faction deputies with the most votes in favor exceeds 30 with Ara Babloyan being the one with the most votes against (4 times). Mher Sedrakyan is the deputy who did not vote the most (22 instances), and the top absentee is Karen Karapetyan (52 times).

The list of top ten deputies in the parliament with the most votes in favor is made up exclusively of RPA members. On the other hand the RPA is not represented on the lists of top ten deputies with the most votes against or abstaining. The list of top ten absentees and most active deputies each have one RPA member.

**PAP.** During the 5<sup>th</sup> session of the National Assembly of the 5<sup>th</sup> convocation the PAP authored 15 legislative initiatives: 3 were adopted in full, with 2 of them being coauthored with RPA and the other one with all factions. During the session only 1 draft by PAP (authored by Mikayel Melkumyan) passed the first reading. 2 drafts by the faction did not get the favorable conclusion of the lead committee and did not make it to the session agenda, 1 was included on the agenda of the four-day session, the inclusion of another 8 drafts on the session agenda was postponed for up to 1 year.



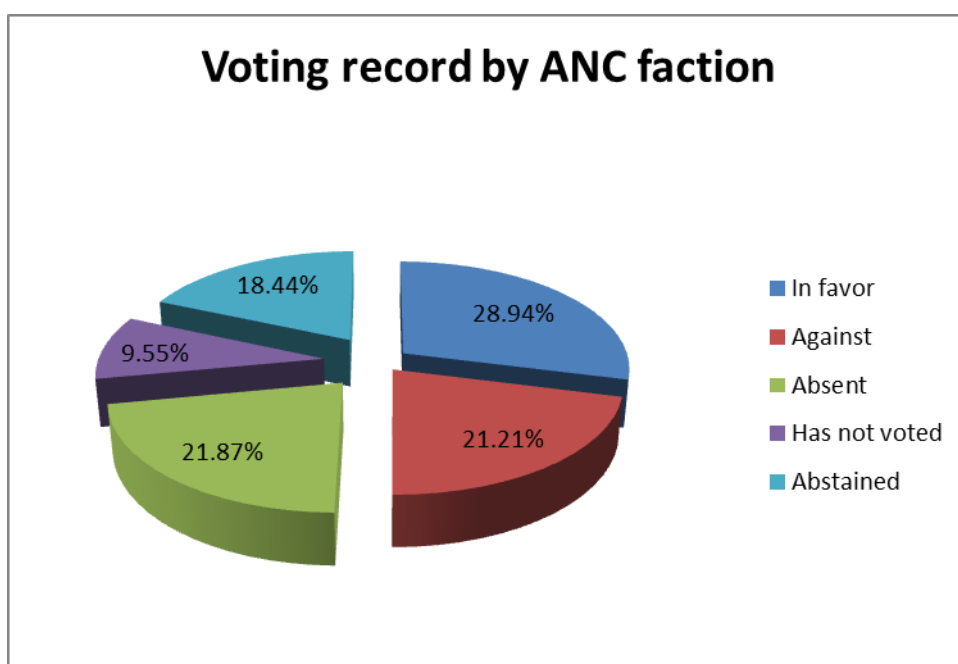
**According to *parliamentmonitoring.am* website statistics during the 5<sup>th</sup> session**

Among PAP faction deputies Mikayel Melkumyan asked the most questions and made the most *speeches* (15 questions, 18 *speeches*), Rouben Gevorgyan has not voted the most (22), Vahe Hovhannisyan voted against the most (12 instances). 4 deputies voted in favor the most (43). The top absentee is Gagik Tsarukyan (75), and with 367 instances of non-attendance Tsarukyan heads the top ten absentees over the convocation. The list has 5 PAP members (Gagik Tsarukyan, Gourgen Arsenyan, Karo Karapetyan, Abraham Manukyan, Aragats Akhoyan).

Stepan Margaryan abstained the most (86 instances) over the convocation. The list of top ten has another 5 deputies from this faction. No PAP member is present on the lists of top ten deputies who voted in favor or against the most. The list of top ten most active deputies has two PAP members (Mikayel Melkumyan, Stepan Margaryan).

**ANC.** In the 5th session of the National Assembly of the 5th convocation the ANC authored 7 legislative initiatives. Only 1 of the laws adopted over the session namely the package consisting of the Laws on the NA Rules of Procedure and On Prosecution bears the name of an ANC deputy. This package was authored by all NA factions.

Only one of the ANC initiatives to set up an ad-hoc committee inquiring into March 1-2 events was discussed through an extraordinary procedure and declined. The ANC has only 1 draft (authored by Hrant Bagratyan) on the agenda of the four-day session, while the inclusion of 5 drafts on the session agenda (1 coauthored with all the factions) was postponed for up to 1 year.



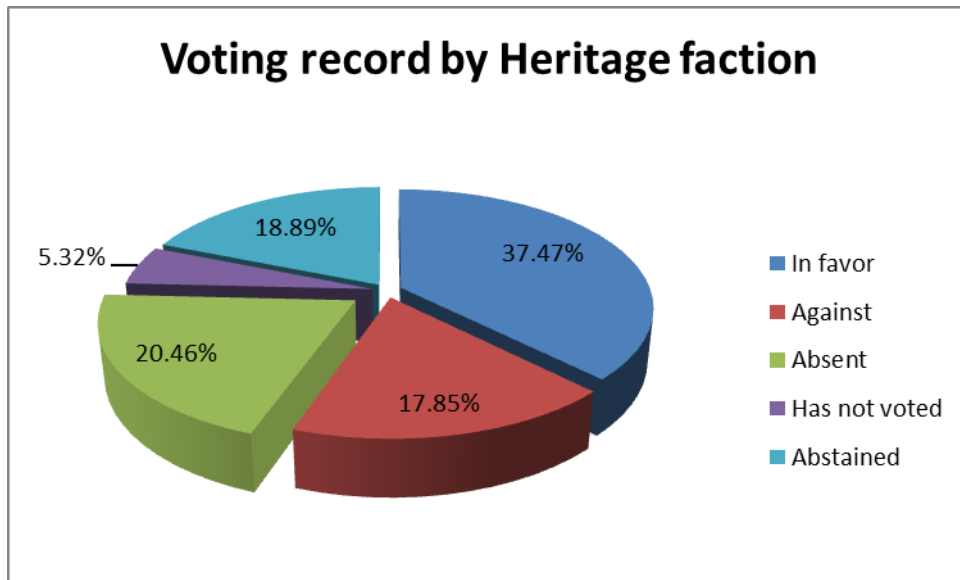
**According to *parliamentmonitoring.am* website statistics during the 5<sup>th</sup> session**

The ANC faction deputy who voted in favor (33) and abstained (20) the most is Lyudmila Sargsyan. Gagik Jhangiryan has asked questions (24) and Hrant Bagratyan made *speeches* the most (17). Stepan Demirchyan is the top absentee (27). The faction deputy with the most votes against is Nikol Pashinyan (32), and with 161 votes “against” he leads the top ten of deputies who voted against the most over the convocation.

The ANC is not represented on the lists of top ten deputies who voted in favor, abstained or were absent the most over the convocation. The list of top ten most active deputies has 3 deputies from the faction (Nikol Pashinyan, Hrant Bagratyan, Gagik Jhangiryan).

**“Heritage”:** During the 5<sup>th</sup> session of the National Assembly of the 5<sup>th</sup> convocation “Heritage” faction authored 8 legislative initiatives. Only one coauthored with all factions was adopted.

One draft by “Heritage” proposing setting up an ad-hoc committee to look into the implications of the use of speed cameras and videotaping devices, introduction of paid parking, imposition of statutory insurance fines for out-of-use vehicles for 2012-2013 was discussed in the plenary through an extraordinary procedure and rejected. The “Heritage” does not have any drafts on the agenda of the four-day session and the inclusion of 7 drafts on the session agenda was postponed for up to 1 year.

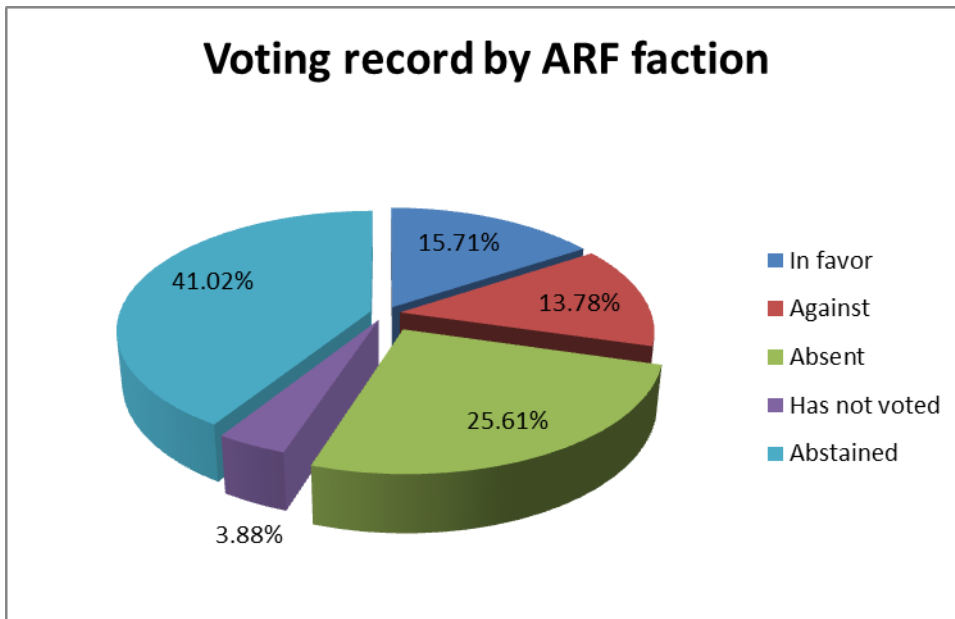


**According to *parliamentmonitoring.am* website statistics during the 5<sup>th</sup> session**

“Heritage” faction deputy Tevan Poghosyan asked the most questions and made the most *speeches* (18 questions, 7 *speeches*). Rouben Hakobyan voted in favor the most (35 instances), and Aleksandr Arzumanyan voted against the most (27 instances). He is also the one who abstained the most in the faction (15 instances). Rouben Hakobyan did not vote the most (7 instances), and Zaruhi Postanjyan was absent the most (75 instances). With this record she is the only deputy of the faction on the list of top ten absentees over the convocation.

Heritage is not represented on the list of the most active deputies and those with the most votes in favor over the convocation. 3 faction members (Aleksandr Arzumanyan, Ruben Hakobyan, Tevan Poghosyan) have made it to the list of the top ten deputies who voted against the most, and 1 member, Aleksandr Arzumanyan appeared on the list of top ten abstaining.

**ARF.** During the session 2 initiatives authored by ARF were discussed through an extraordinary procedure and declined. One proposed making amendments to the Electoral Code and introduce a 100% proportional electoral system, the other one setting up an ad-hoc committee to study the operation of Nairit plant and its development prospects. The ARF has 1 draft included on the session. The inclusion of another one coauthored by all NA factions was postponed for up to a year.



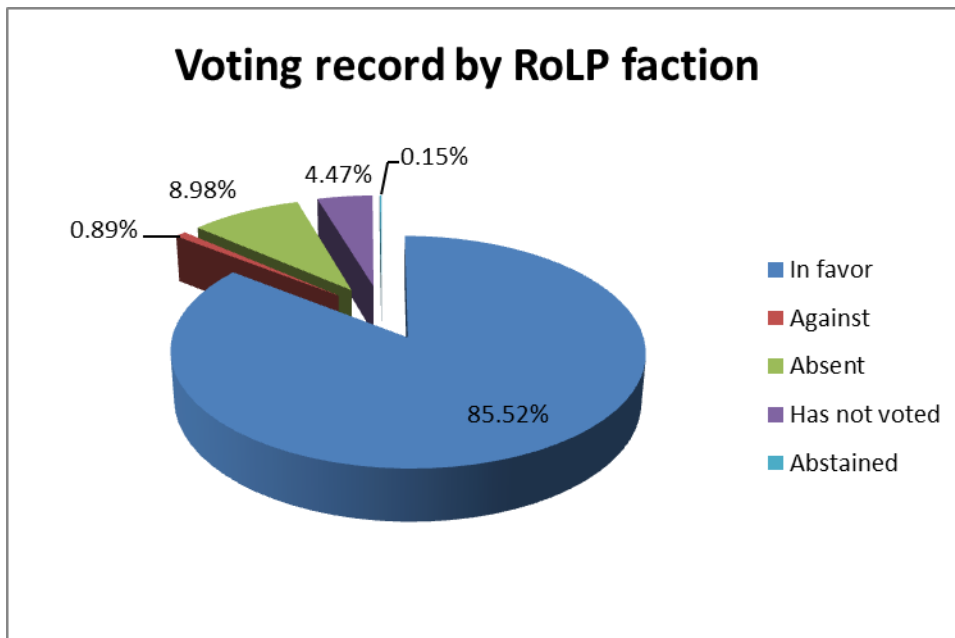
**According to *parliamentmonitoring.am* website statistics during the 5th session**

The deputy with the most questions asked and speeches made among ARF faction deputies is Artsvik Minasyan (20 questions, 18 *speeches*). He is also the faction deputy who voted in favor (26), against (17) and abstained (34) the most. Armen Babayan did not vote (9) and was absent (31) the most. With this record of absences Armen Babayan is the only deputy of the faction included on the list of top ten absentees throughout the convocation.

No ARF faction deputy is on the list of top ten deputies who voted in favor the most over the convocation. 4 ARF members (Artsvik Minasyan, Aghvan Vardanyan, Armen Rustamyan, Armen Babayan) are on the list of top ten deputies who abstained in the votes. The list is headed by Artsvik Minasyan who abstained 172 times. He is also the most active deputy and is the only ARF member in the list of top ten most active deputies.

**RoLP.** During the 5<sup>th</sup> session of the National Assembly of the 5<sup>th</sup> convocation the RoLP authored 10 legislative initiatives: 2 that were coauthored with other factions were adopted. 2 drafts by the faction were included on the session agenda and another 1, coauthored with RPA is on the agenda of the four-day session.

The inclusion of 5 drafts on the session agenda was postponed for up to 1 year. One of these drafts was authored by the RoLP along with the RPA, the other one was jointly authored by all NA factions. No draft authored only by RoLP was discussed in the plenary.



According to *parliamentmonitoring.am* website statistics during the 5<sup>th</sup> session

Over the convocation Mher Shahgeldyan and Hovhannes Margaryan (21) are the deputies with the most questions asked in the RoLP faction. Mher Shahgeldyan had the most *speeches* (15) and votes against (7). Ishkhan Khachatryan voted in favor the most (50 times), and Hovhannes Margaryan was absent (4 instances) and did not vote (26 instances) the most. Over the session Levon Dokholyan abstained the most (17 instances).

The lists of top ten deputies who were absent, voted in favor, against or abstained the most over the convocation do not have any RoLP members. The only RoLP member on the list of top ten most active deputies is Hovhannes Margaryan.

## NA OVERSIGHT

Oversight is a key authority and function of the parliament stated in the supreme law of the country. The authority vested in the parliament by the Constitution stems from the fundamental principle of separation of branches of government and checks and balances, implying also the parliament's great responsibility in performing this function. The reality of the recent years however shows that the NA political majority tends to undermine its authorities, levers and responsibility to the principle of the "united political team" that has no legal backing whatsoever. This approach does not arise from the fundamental constitutional principle of separation of powers and checks and balances, and, in fact, directly contradict it. So the ruling political majority has assigned the parliament a mostly formal role in governing the country.

From the standpoint of performance of the parliament's oversight function the 5<sup>th</sup> session was overall not different from the previous ones, but had its distinguishing features:

- It so happened, that the parliament of the 5<sup>th</sup> convocation approved 3 government programs during the first two years of work. The parliament did this for the third time during the session under review due to government's resignation and formation of the new government.
- as set by the procedure of the spring session the parliament heard and approved the budget performance report for the previous year by the Government. The new government presented the 1-year performance of the government that had resigned two month ago and failed as viewed by many. This report stated that the program was implemented fully without gaps and mistakes. The parliamentary majority shared this assessment of the government.
- the most distinctive thing about the session was the large number of initiatives to set up ad-hoc parliamentary committees. The political minority came up with such initiatives regarding various issues trying to find here real opportunities for self-expression. None of the initiatives by the minority materialized, but one of them prompted the majority to set up such a committee on own initiative.

## NA ad-hoc committees

*Over the spring session the parliamentary minority came up with initiatives to set up NA ad-hoc committees four times. In all four cases the respective draft decisions were included on the agenda of the session and four-day sessions through an extraordinary procedure, by the signatures of the 1/3 of the deputies.*

- The draft decision on **“Setting up an ad-hoc NA committee studying public debt accumulation and gas pricing in the RA gas supply sector from 2011”** (author was the non-ruling quartet) was intended to for the committee to look into the rationale behind the accumulation of public debt for gas imported from Russia to Armenia from 2011, its size and legitimacy of its repayment, the composition and structure of retail and wholesale prices and the factors impacting them. As per the authors, in the course of its work the committee would have the authority to request the necessary documents from state and local bodies of self-government, could invite officials to receive clarifications and engage experts, including international ones in its work. The quartet proposed including one representative from each faction in the committee and one deputy not representing any faction. The conclusion by the committee was to be presented to the National Assembly before the end of the session. The issue was discussed 2 days and was turned down in a vote (43 in favor, 58 against, 3 abstained). The majority was against setting up the committee citing other available mechanisms for investigation of the issue.

- The initiative to set up an RA NA ad-hoc committee investigating the reasons for Nairit cjsc privatization, assumed credit obligations and failure to perform adequate economic activity, was on the agenda of the 5<sup>th</sup> session from September of 2013 (author is the ARF). In February of 2014- the inclusion of the draft on the four-day session agenda was first postponed for up to 1 year, then included on that agenda through the extraordinary procedure based on the signatures collected by the non-ruling quartet. According to the authors of the initiative the idle time of Nairit cjsc and limited volumes of production have significantly affected the socio-economic state of the country. The committee had to look into the reasons for the idle time and work out possible relaunch options. The ruling power was against the set-up of the committee arguing that the government is holding talks over the relaunch of Nairit with Russian company Rosneft, and the set-up of the committee could affect the course of negotiations. The draft was discussed and rejected with 45 votes in favor, 54 against and 1 abstaining.

- The draft decision (authored by the ANC) “to set up an ad-hoc committee of the RA National Assembly inquiring into the reasonableness and legality of measures and action taken by the RA Police, Special Investigation Service and RA Prosecutor’s general office with regard to the case of murder of ten people or causing death, firearm and other bodily injuries to civilians, police and the military on March 1-2, 2008 in Yerevan”, was also in circulation since 2013. It was once discussed and rejected in the 3<sup>rd</sup> session. The same issue made it on the agenda of four-day session of March 10-13, 2014 initiated by the non-ruling quartet. As the authors of the draft insisted the crimes committed on March 1-2, 2008 and the circumstances of the 10 killings remain unsolved, those guilty of them are not punished, the respective criminal case investigations though not discontinued but, are not actively carried out. The committee’s objective was to determine the reasons and circumstances of the March 1-2, 2008 killings and firearm and other bodily injuries, examine the implication of state bodies and officials in these events, look at the reasonableness and legality of measures and action taken by the RA Police, Special Investigation Service and RA Prosecutor’s General office. The deputies representing the ruling power believed that the issue was untimely and the closed page of March 1 did not need to be reopened. The initiative was declined (46 in favor, 65 against, 1 abstained).

- The draft decision (authored by “Heritage”) “on setting up an ad-hoc committee of the National Assembly of the Republic of Armenia to look into the implications of the use of speed cameras and videotaping devices, introduction of paid parking, possible raise in fares for passenger transfers, imposition of statutory insurance fines for out-of-use vehicles in 2012-2013 for individuals and legal entities individuals and legal entities of the Republic of Armenia” sought to study and determine to what extent the fines and penalties set for traffic violations are valid, what effect the speed cameras and videotaping devices installed on the roads in 2012-2014 and the paid parking operating in Yerevan had on the tax burden. The vote on this issue put up for discussion from March 24 took place in the four-day session of April 28. In the meantime the government itself managed to set up a similar working group. RPA leader Galoust Sahakyan mentioned it when the question was put up for a vote. He believed that since this group was already working in the

government, setting up an ad-hoc parliamentary committee can interfere with it. The initiative was declined (51 in favor, 62 against).

The only committee set up during the session was the one on studying the operation of the RA gas supply sector. Declining a similar proposal by the non-ruling forces the RPA, together with its coalition partner, the RoLP, initiated and set up this committee, which included also members of the non-ruling factions.

The 4 working subgroups set up were to conduct research in the following areas: consumer rights protection in the gas supply sector, the legitimacy and rationale for debt accumulation for gas in 2011-2013, the valuation process of Armenia's share in ArmRusGazProm cjsc charter capital, alternatives for importing natural gas, formation of gas and electricity tariffs.

The plan for the committee was to work till the end of the session, but during the extraordinary session held in June an interim conclusion of the committee was presented and extension of the work of the committee till the end of the 6<sup>th</sup> session was proposed.

## Oversight lever or imitation?

(expert review)

The right of the National Assembly to set up an ad-hoc committee rests on the principle of separation of powers, checks and balances as well as oversight by the parliament of other branches of the government. The proactiveness in setting up ad-hoc committees, completeness and consistency of work in terms of the aims and objectives are the criteria determining the institutional independence of the parliament. On the other hand, the opportunity to exercise the right to set up ad-hoc committees is a tool to affect the socio-political processes and political decision-making. As such it is directly contingent upon the ratio of the political forces in the parliament and political environment.

It is no coincidence that the initiatives to set up ad-hoc committees almost always came from the parliamentary minority, while the position of the majority was determined by political reasonableness and the state of dependence of the parliament on the executive. For this reason, the issues identified as a result of the work of the ad-hoc committees and the summaries of findings even with strong evidence base, have led to little concrete consequences. So the general attitude is to make the right to set up ad-hoc committees and the results of their work merely formal and minimize their political and practical significance in term of the oversight function of the parliament.

While these tendencies are generally present in the 5<sup>th</sup> session of the 5<sup>th</sup> convocation of the NA, due to certain political factors several points were observed in this session in particular.

- During the session the intensity of initiatives to set up ad-hoc committees was unprecedented. Only 1 out of 5 such initiatives came from the parliamentary majority. The purpose was to counterbalance a similar initiative by the minority.



- The initiatives to set up ad-hoc committees and their intensity stemmed from the tactical consideration of the parliamentary minority to substantiate the inefficiency of the previous government and drive the Prime Minister Tigran Sargsyan to resign. This served as a strong impulse for political motivation in the parliament. The set-up of ad-hoc committees and discussions around them were the means of self-expression for the opposition united under “*the non-ruling quartet*” title.
- The active work of the quartet, as a non-formal union of non-ruling parliamentary forces, made the majority revise its traditional denialist tactics with regard to the set-up of ad-hoc committees. Moderate tolerance and the approach of ensuring manageability came to replace the attitude of denial.
- The opportunity for consensus-based solutions presented itself especially in the discussions over the draft decision by the majority to set up an ad-hoc committee “examining the gas supply sector and the grounds for debt accumulation”. The authors of the initiative made concessions accepting the minority’s proposal: first, to review also the legality of the debt accrual for consumed gas and secondly reduce the term of the committee’s work from 9 months to 3 months. As a result of these concessions the non-ruling forces agreed to work in the committee.

So, in this session the parliament demonstrated an overpoliticized approach towards exercising its oversight authority by means of ad-hoc committees. The distinctive features which manifested themselves during the session, do not suggest any tendency so far and are dictated by the political circumstances of the day.

### Budget performance report

On June 12, 2014 with 67 votes in favor, 40 against, and 5 abstained, the NA decision on approving the 2013 state budget performance annual report was adopted. Only the RPA voted in favor of the document, while the RoLP abstained and the other parliamentary factions voted against. The four non-ruling forces explained their position citing a similar voting for 2013 budget.

The budget for the previous year was drafted and implemented the cabinet of Tigran Sargsyan, that had resigned two months prior to the discussion of the report. This fact “narrowed” the scope of responsibility for the government led by Hovik Abrahamyan, and served as the right occasion for the parliamentary non-ruling forces to once again discuss the performance of the previous Prime Minister and the government. The discussion in the plenary was not as much about the key indicators in the document, but more about economic policy failures of Tigran Sargsyan’s government. In 2013 the economic growth rate was 3,5% versus planned 6,2% while according to the document presented the indicators set in 2013 budget were performed by 100 %.

**Note:** According to the report the state budget income for 2013 made up 1 trillion 71 billion drams (performance at 99.8 %). The tax income and state duty receipts planned for 2013 were collected by 100 %, as for other income the performance of these has exceeded the planned indicator by 8.2 %. With regard to official grants a 66.2 % performance indicator was recorded.

The planned expenditures for the past year were planned at 1 trillion 153 billion drams, but increased by 109.6 billion drams over the year totaling 1 trillion 258 billion drams. The expenditures performance is at 90,8 %. Compared to 2012, in 2013 the expenditures increased by 2,2 % or 6.4 billion drams. For the purpose of foreign debt servicing 25 billion drams were allocated. In the previous year 43.2 billion drams from the state budget reserves were used. Compared to 2012, in 2013 the state budget deficit increased by 19.4 %. Accordingly, it made up 71.5 million drams in the reporting year.

As of December 31, 2013 Armenia's foreign debt was 3 billion 899 million US dollars or 37.1% of GDP. The government does not find this indicator concerning. By international standards of assessment Armenia is among countries with little debt burden.

### **The third program of the government: between realistic caution and traditional declarative nature** *(expert review)*

The National Assembly of the 5<sup>th</sup> convocation has 3 times approved programs of the government over two years of work. The first two were approved following the 2012 statewide parliamentary and 2013 presidential elections and the 3<sup>rd</sup> one in the 5<sup>th</sup> session due to the new Cabinet formed in the wake of resignation of Prime Minister Tigran Sargsyan's cabinet. Presumably, the program of the new government had to be substantially different from the previous ones by its emphasis and aims.

However, the document submitted to the NA had not only inherited the declarative nature of the previous ones, but also had become richer in general concepts and formulations. If the declarative nature of the previous programs was somewhat offset by ambitious, large-scale projects planned, the program of the new government is markedly moderate, and even cautious.

The program almost lacks specific indicators. Only 3 indicators are set: securing outstripping rates of economic growth through a 5 % medium-term growth rate of the GDP, gradual raise in the minimum salary to make 65,000 drams over three years and reduction in poverty by 10 %. The government also stresses the importance of completely shifting to program budgeting starting from 2018, as well as programmatic points on setting up an all-Armenian investment fund.

This approach makes the document adaptable to possible changes in the situation and more flexible in terms of measuring. For instance, the program talks about offering “special” assistance to entry-level entrepreneurs as a way of promotion of small and medium entrepreneurship, as well as applying “exceptionally flexible” schemes for the starting businesspeople from marzes, “introducing new direction” of state assistance to businesses in the SME sector. However, it does not elaborate either on the specific features and ways of this assistance and flexible approaches, or on the framework combining the promised new directions of state assistance to SMEs.

Although in certain sectors (justice, fight against corruption, agriculture, revision of statutory component of funded pensions), introduction of certain new ideas, the program does not envisage institutional changes in the overall policy or new reforms. For instance, stressing the need and readiness “to take radical and consistent measures against existing distortions in the economic environment” the government does not specify these distortions, their reasons and tangible effects.

The executive focuses on three key priorities in its program:

- cut in the black economy through revising administration and setting new rules of the game to create a competition-based environment for doing business, as well as a gradual shift of the tax burden from small and medium business segment to large businesses. The institutional grounds for the resolution of these issues are not reflected in the program. The emphasis here is not on creating a complete set of mechanisms, methods and legal regulations serving this purpose but on political will, promises and personal relationships.
- fight against corruption, anchored in the ethical conduct of the high-ranking officials and refining the concept of conflict of interest and building a new image for the state employee. It is unclear though, how this image will be built without an appropriate toolset for motivation of state employees. It is not revealed whether improving the concept of conflict of interest is viewed in the context of strengthening the operational role of the Ethics Committee for High-ranking officials, and expanding its oversight functions.
- Primary significance is attached to the the constitutional reforms. The issue of maintenance of a stable economic environment is directly determined by the political implications of these reforms. This means that the negative points present in the economic system are thought to be due to imperfect legislative regulations.

The program of the government was discussed in the parliament mostly in the context of its political significance. The main criticism was directed not so much at the content and structure, but rather at the principles of forming the new government. For ARF, “Heritage” and PAP the rejection of the proposal to provide the opposition with oversight levers was critical, for ANC it was the disregard of the principle of conflict of interest in reshuffling the cabinet, for RoLP the failure by the ruling power to present the reasons behind the resignation of the former cabinet. Nonetheless, the RPA called the moderate and unambitious nature of the program realistic. Unchanged was the reasoning and enthusiasm, with which it had welcomed the programs of the previous government, albeit declarative but more ambitious and indicator-rich.

## NA LEGISLATIVE WORK

Over the 5th session of the RA National Assembly of the 5th convocation 143 laws were adopted. 13 are mother laws and 130 are amendments and additions to the operating laws. The Government was the author of 136 laws adopted with only 7 authored by NA deputies.

Over half of the laws, 77, were adopted over the extraordinary sessions.

Over 30 draft laws making up several hundred pages in total started out on the first day of the June extraordinary session of the parliament (June 18) and were adopted laws already by the 4th day.

The most contentious legislative packages, on funded pensions (11 draft laws) and environment (3 draft laws), passed all 3 readings in a record time, 1 day.

54 of the adopted laws concerned the state and legal matters, 41 the socio-economic sector, 18 the defense, 14 the agriculture and another 14 the education.

Below we present the findings of the monitoring performed on around ten laws adopted over the spring session. We made our selection taking into consideration the public resonance and public interest toward them. We looked at the processes of adoption of legislative packages related to social, legal, tax, environmental and mass media sectors. We also reviewed the political programs of the parliamentary forces to see how these issues are treated there and how consistent the positions taken in the votes are with these programmatic approaches.

### **The odyssey of the funded pension system.**

The 5<sup>th</sup> session of the NA of the 5<sup>th</sup> convocation passed in the context of legal-political developments with regard to statutory funded pension system reform and unprecedented social-political pressure on the political majority and the government altogether. The statutory funded pension system had taken force from January 1, 2014, but the settlement of the issue had to go through several important stages over an entire semester.

**Note:** In December of 2013 in order to determine the constitutionality of the statutory component stated in the law on Funded Pensions the four non-ruling forces of the NA applied to the the Constitutional Court. On January 21 the Constitutional Court issued a procedural decision on temporary suspension of the application of the statutory component until the Constitutional Court reviewed the issue and made a final decision. The unclear points in the formulations of the decision by the Constitutional Court lead to different interpretations and political speculations. At the same time the determination of the government to introduce the system at all costs was evident.

The decision adopted by the Constitutional Court on April 2 recognized a number of clauses of the Law on Funded Pensions as unconstitutional, but the deadline for it to stop operating was set on September 30 of this year. All the payments made towards funded pensions prior to the decision had to be recalculated. The decision of the Constitutional Court was anchored in the approach that a number of clauses of the law on Funded Pensions do not arise from the citizen's right to own, use and administer the salary as their property.

#### Feedback from expert review

As much as the Constitutional Court decision was overall straightforward and required that the government change in principle the system to be introduced it still contained concepts and formulations leading to legal and political interpretations. This led people to infer that the Constitutional Court attempts to lay the groundwork for the introduction of the statutory component and on the other hand guide the government in social policy implementation. The Constitutional Court was not clear about the return of the sums already transferred starting from January 1, 2014 til the moment its decision took force.

Following the April 3<sup>rd</sup> resignation of Prime Minister Tigran Sargsyan and his cabinet the newly appointed Prime Minister was in charge of implementation of the state policy on the introduction of the statutory funded pension system. Hovik Abrahamyan coined the “statutory but not imposed” phrase. This formulation sought to come up with some kind of a hybrid model that would not get rid of the principles of the statutory funded pension system while employing the principle of voluntarism for the stakeholders. The “new” approach of the executive was dictated not only by the decision of the Constitutional Court, but also by the significant and persistent socio-political revolt against the application of the statutory component of the funded pension.

**Note:** The draft law introducing amendments to the Law on Funded Pensions was adopted in the NA extraordinary session of May 13 (68 in favor, 12 against, 36 abstained). It was essentially an interim version by which the employer no longer had to calculate and transfer employee contributions based on the employee's letter on opting out of the system. This would be the case until the legislation is brought into complete compliance with the decision of the Constitutional Court. The second key concession was to exempt the employers from penalties in case of not making the payments towards funded pension or payments in arrears. By doing so the government did not in fact dispose of the statutory component of the funded pension. It left the issue in the realm of employer-employee relations.

This interim solution found suggested the principle of a so-called “mandatory voluntarism” when de jure it is the citizen’s right to join the statutory funded pension system, however de facto this is at the discretion of the employer. While it may not present a problem for the private sector, the state and budget-funded employees however faced the risk of hidden pressure in case of submitting letters opting out of making statutory payments toward funded pension. In any case, this solution primarily sought to ease the public and political tension concerning the statutory component.

At the end of June without waiting for the end of the term set by the CC decision, the government presented an extensive legislative package to the NA aimed at bringing the funded pension system in compliance with the April 2 decision. The package was discussed through a special procedure in an extraordinary session, was adopted in a record time (3 readings in 1 day) and in a contentious vote.

#### *Feedback from expert review*

The legislative package adopted on June 21, 2014 was submitted to the National Assembly and included on the agenda skipping the steps prescribed by law, that is public discussions, expert examinations and respective conclusions, no amendments were made to the Law on State Budget 2014. This was not consistent with the procedural decision by the RA Constitutional Court PDCC-3 from January 24, 2014 the PDCC-3. It stressed the importance of public awareness, stating that, “...the successful application of funded pension is largely contingent on the proper awareness and trust of the population towards the system”. Therefore, laws adopted with a violation of the procedure set for adoption of the laws cannot be considered consistent with constitutional principles of legal clarity, and appropriate “quality of the law”.

The edited law AL-244-N of December 30, 2010 is a completely new and different law presented however as an incorporation keeping only the date of adoption, serial number and the title.

**Note:** By the package leading to amendments to 11 laws the statutory payment toward the funded pension is replaced with a targeted social payment made to the state budget. The rate of social payment is calculated as before, setting an upper limit of 500,000 drams for the calculation base of the social payment. The upper threshold of state participation is also maintained at a maximum of 25,000 drams monthly. According to the package the maximum threshold for the calculation based of the social payment will be subject to change from 2019 along with the average salary increase. It is also stated that the social payment for those earning a minimum salary will be made by the employer. Also new are the requirements set for the risk management system of the asset managers, as well as quantitative and currency restrictions on the investments of assets by the pension fund are stated by the law. The system operates on a mandatory basis for the state employees. Private sector employees can join the system on a voluntary basis til January 1, 2017. After that time the system will become mandatory also for the private sector.

The adopted approach showed that the ruling political power had not given up the intention to introduce the statutory component of the funded pension, choosing the option of its stage-by-stage implementation. This very fact served as one of the main reasons for rejecting, in principle, the legislative package by the parliamentary minority. The non-ruling forces argued that the amendments seek to maintain the funded pension system and introduction of new concepts along with formal, cosmetic changes do not change the anticonstitutional nature of the system. Another key reason why the the parliamentary forces opposed was the tactics of the political majority to discuss the package through an extraordinary procedure and adopt it at all costs. The government had not in fact complied with the requirement to allow a 15-day regime for the public discussions over the package and had not properly presented it to the NA deputies and factions in advance.

On the other hand, the adoption procedure that this package underwent put its legitimacy under question. Following the vote (66 in favor, 0 against, 0 abstained) the non-ruling forces insisted that they had recorded cases of voting on behalf of the absent deputies, since the number of RPA members present in the plenary, that is 64, would not be sufficient for the adoption of the package by simple majority. This reality cast a shadow not only on the mentioned package, but also on the adoption of draft laws discussed over June extraordinary session.

### **The issue of pension reform in election programs**

Instead of efficient discussions over a system that would be in the best interest of the citizens, the odyssey of the introduction of the funded pension system was accompanied by political confrontation between the ruling power and the opposition. RPA majority insisted on the introduction of the statutory component (it was one of the elements of their election program), while the non-ruling forces were united against the positions and actions of the political majority

ignoring their own programmatic approaches. In case of PAP and “Heritage” this politicized posture can be due to the absence of program-based positions concerning the pension system reforms. However, the ANC and ARF programs support the idea of the mixed pension system or the stage-by-stage shift from distributive to voluntary funded pension system. The ARF tried to find consensus-based solutions through a dialogue with the government and the NA majority in order to get rid of the statutory component and shift to the voluntary system. The ANC, on the other hand, was not inclined to negotiate with the government over any point at all. As for the RoLP, which was restricted with the fact of being a coalition member til April, was markedly idle even though their program proposes a radical reform in the sector through the introduction of a funded insurance system.

### **The social responsibility of the business environment: tax amendments**

The parliament rarely discusses legislative initiatives that are directly or in the first place associated with a certain stratum of the society and the corporate social responsibility. In the session reviewed the National Assembly discussed and adopted two such laws making amendments to the laws on Excise tax and on Accounting.

**Luxury tax:** With the amendments made to the Law on Excise tax (May 22, 2014) the excise, or the so-called luxury tax levied since 2013 was abolished. It concerned light passenger cars with a customs value of 25 million or over or manufactured less than 2 years ago and with engine capacity of 4500 cubic centimeters or over.

The authors stated that the introduction of 2011 amendments to the law on Excise tax had led to a significant drop in the volume of imported cars subject to the excise tax and the RA budget receipts. Taking into account that the mechanism set by this tax type did not serve its purpose, the deputies proposed getting rid of the excise tax set for light passenger vehicles. The government, which had talked about the ineffectiveness of the “luxury” tax much earlier, had issued a favorable conclusion to the draft law by the deputies.

**Abolition of statutory audit:** The amendment made to the Law on Accounting (May 20, 2014) lifted the requirement for audit set for business entities considered large and reporting a sales figure or balance-sheet value of assets of 1 billion or more. Now the performance of audit would be at the discretion of the organizations. Before these change the large companies were required to publish their annual financial statements along with the audit opinion. As argued by the government the prices for audit services have significantly moved up upon the introduction of this practice, becoming a substantial burden for large business entities. The proposal was to ease the financial burden of the large businesses by lifting the requirement for statutory audit.



## Feedback from expert review

The package was authored by the RA Government with the purpose of avoiding an additional financial burden for the businesses and prioritizing the so-called horizontal monitoring mechanism. If the organizations work with the tax authorities in a transparent manner they do not come under a rigorous regime of oversight.

The rationale of the package stands in contrast to the idea of ensuring equal, competitive terms of doing business and promoting small and medium entrepreneurship. It undermines the levers of state regulation towards large businesses through independent audit, the accountability to the public, as well as lowers the level of performance of quality accounting. While stating that the large businesses need to be freed from additional financial burden, the government disregards the issue of lifting that burden also off small and medium enterprises, thus at least offering equal terms of doing business.

## The issue in the programs of NA factions

**Note:** The legislative package proposing amendments to the law on Excise Tax was adopted with 71 votes in favor and 31 votes against. The RPA supported it, the RoLP did not participate in the vote, and the present deputies from the other 4 factions voted against. Interestingly the PAP did not support the legislative initiative authored also by a PAP deputy.

The legislative package proposing amendments to the law on Accounting was adopted with 100 votes in favor and 15 votes against. It was authored by the government. The RPA, PAP and RoLP supported it, while the NA oppositional factions voting against.

The election programs of the NA political forces do not prioritize the issues around the wealthy class and the social responsibility of large businesses. However, all the programs contain clauses on the development of the SME sector, as well as making large business activity, especially of oligopolistic nature, the key targets of fiscal policy.

**ANC.** In its program entitled “100 steps” it attaches great importance to the equal distribution of the tax burden in practice. Crackdown on black economy is considered one of the key guarantees for the development of the tax and customs system. In this sense, the lifting of the statutory audit requirement for large organizations goes against the ANC programmatic approaches. The faction opposed the package since it would drive SME-s into an unequal and unfair environment of doing business and also possibly increase the corruption risks.

The ANC has not focused on the issue of taxing the wealth in its program. Overall, the transparency and accountability principles are not of primary importance in the program. Perhaps, this explains the mixed voting picture of the faction over the legislative amendment, with some of the deputies voting against and others not participating in the vote.

**ARF and “Heritage”** recommend addressing the issue of SME- development predominantly through flexible monetary policy. Therefore they propose differentiating business entities not

based on volumes of business or categories, but on the degree to which it is conscientious and transparent in legal and tax matters. They also talk about targeting the entrepreneurship of oligopolistic or monopolistic nature operating in the black economy mainly to prevent the centralization of property. The abolition of statutory audit for large businesses is regarded as a factor undermining the oversight mechanisms of this sector by the state. Both the ARF and Heritage attach great importance to the taxation of luxury from the perspective of social justice and responsibility principles. The key difference is that they see it happen through amendments to the legislation on property tax and introducing a progressive taxation scheme and not by means of excise tax. In this sense the mechanism operating prior to this legislative amendment and the political majority's position to get rid of the "luxury" tax equally contradict their program philosophy. Perhaps, for this reason that, the ARF, in particular, did not demonstrate a united position in the vote.

**RoLP's** approaches on this are very general in the program. It stresses the need for more intensive fight against the black economy and the oligopolistic system, though mechanisms to do this are not clear. The RoLP also supports the idea of differentiation of business entities based on the criteria of conscientious conduct in performing their obligations to the state. It suggests stricter tax administration for the unscrupulous entities, whereas conscientious organizations can enjoy more simple procedures for oversight. If we put this together with the rationale of the government stating that the new procedure of accounting without audit for the large businesses arises from the need to free the conscientious taxpayers from the financial burden and administrative oversight, these solutions should be in line with the RoLP's programmatic points. From this standpoint the faction's voting in favor of the package is logical. The RoLP demonstrated its attitude to the legislative initiative on removal of the "luxury tax" by not participating in the vote, which means that while not being in essence against, the faction was guided by the logic of avoiding responsibility. This issue is not covered in the RoLP election program.

**The RPA and PAP** prioritize the prevention of economic abuse and punishment of anti-competitive actions without specifying the way to do it. The PAP plans to fight the black economy by rough but justified measures, not clarifying its understanding of the term "justified". Judging from the fact of voting in favor of the amendments to the law on Accounting, the RPA and PAP do not consider the application of the independent audit mechanism to be a justified means in this fight. They have ignored the fact that the large businesses have an advantage over SMEs as a result of these amendments as well as the fact that lifting of the audit requirement for the large business entities can potentially lead to not only anti-competitive activity and abuse, but also contribute to black market activity. It also goes against the PAP programmatic approach to ease the schemes of oversight and state intervention for the SMEs.

Judging by the programs of the largest parliamentary factions they do not see the need for introduction of luxury tax or regulation in this area. The RPA voted in favor of the initiative to make amendments to the law on Excise tax and the PAP voted against it. Interestingly, the PAP demonstrated a negative attitude despite the fact that one of the authors of the draft is a member of the faction. By voting against it the PAP simply acted in agreement with the opposition.

At the same time let us note that, the RPA's and PAP's approaches to the mentioned legislative initiatives were heavily affected by the large number of deputies in these factions, who are linked to the business world and their business interests.

### Policy on advertising in the parliament's line of vision.

Over the session under review the parliament focused on the mass media in the context of two legislative packages aimed to change the rules of the game in the TV advertising market. In both cases amendments concerned the laws on Television and Radio and on Advertising. Another legislative initiative on the sector, envisaging amendments in the RA Civil Code, met the vehement reaction of the media sector immediately upon circulation. Following the parliamentary hearings organized for the draft law notionally called "Against fakes" the authors decided to put the further discussions on hold.

**TV commercials of spirits:** The adopted amendments to the Laws on Television and Radio and on Advertising (June 21, 2014) sought to modify the terms for the ban on advertising of strong alcoholic beverages and allow such advertising in a certain time of the day, from 10 p.m till 6 a.m. Prior to these amendments Part 5 of Article 15 of the RA Law on Advertising prohibited the advertising of strong alcoholic beverages (containing alcohol of 20 and more vol. %, except brandy) and tobacco through electronic mass media.

As authors state the minors do not watch TV at the mentioned hours, therefore the logical restrictions of the operating law are still effective. On the other hand according to preliminary calculations in case of adoption of the draft law, up to additional 1 billion drams of advertising funds can annually be directed from the companies importing alcoholic beverages to the TV companies in Armenia.

#### Feedback from expert review

The fact of allowing advertising of strong alcoholic beverages during night hours received a mixed response from the health care sector, as well as mass media sector and the experts. Some tend to think that, that this is the product of joint lobbying by certain TV companies and companies engaged in the production or exports of strong alcoholic beverages. So the increased receipts from advertising, that the authors of the draft law cite, will not have a significant impact on the content quality of the TV programs. Another group of experts believe that the amendment will not significantly increase the consumption of strong alcoholic beverages in Armenia (and will therefore hardly affect the health of the population). It will heavily impact the consumption of the beverage of only this or that brand (advertised the most).

Second, there is a concern that the law seeks to increase the profits from advertising for certain TV companies that are considered market leaders and in a close relationship with the ruling power.

**Ban on advertising on Public television:** The amendments proposed to the Laws on Television and Radio and on Advertising (March 12, 2014, first reading) seek to ban advertising on Public television (with the exception of social ads as well as information on sponsors during cultural, educational, scientific and sports TV shows). The time freed is to be dedicated to TV shows “of greater value and importance”. The rationale for the draft states that commercial advertising does not serve the purpose for which the Public television is created, financed by the state budget and operates.

#### Feedback from expert reviews

Previously, the share of commercials broadcasted on Public television was set not to exceed 5% of the programs in total. However the Public television often violated this threshold. With changes introduced on June 10, 2010 this threshold was raised to 7%, and the recent studies show, that the public television is able to maintain it. Nonetheless, many experts and sector professionals state, that no advertising should be present on Public television. And now while welcoming such a draft law, we should also note, that if the Public television financing from the budget does not increase or no alternative sources of financing are found to offset the losses from advertising receipts, then this well-meaning initiative (the consumer will have a TV channel intended for a general audience with no commercial breaks) can adversely affect the quality of programs on Public television.

#### The issue in the programs of NA factions

**Note:** The legislative package proposing amendments to the Laws on Television and Radio and on Advertising that would allow the alcohol advertising was adopted in the extraordinary session on June 21 with 67 votes in favor. Only the RPA faction participated in the vote on the draft law presented by own deputies.

Amendments to the Laws on Television and Radio and on Advertising banning commercial advertising passed the first reading with 85 votes in favor, 5 against, 18 abstained. The package was included on the agenda of the June four-day session, but was not submitted for the second reading, though the amendments were expected to take force from September 1 of 2014.

The parliamentary forces showed more interest to the package authored by the deputies allowing the advertising of strong alcoholic beverages on TV. They also demonstrated loyalty to the legislative amendments package banning commercial advertising on Public television.

The positions of the factions, however, were situational and not conceptual. This is due to the lack of programmatic approaches to the regulation of the sector. With the exception of “Heritage” and partly ARF factions all the other forces practically do not cover the freedom of speech and press, in particular, and the current state of affairs in the field in their election programs. They do not present their vision in terms of either protection of fundamental human rights or the regulation of the media field as the fourth estate.

In the end the ANC and PAP demonstrated a nearly identical positions to the presented packages. They did not participate in the vote on the legislative package allowing the advertising of alcoholic beverages out of tactical consideration to sabotage it, and mostly abstained in the vote on the legislative package banning advertising on the Public television. In both cases political motives were at work. The concern was about the possible hidden lobbying for certain TV companies and media holdings and the imperative to neutralize it.

Despite the boycott by the non-ruling forces, legislative initiative allowing the TV advertising of alcoholic beverages was successful because of RPA faction’s voting as a united team. But this position was not program-based but rather situational to show support to fellow RPA members authoring the draft. In fact, the government also had given the green light to this package at a certain point only because the authors of the initiatives represented the same political team. And this is considering that the RA Ministry of health had expressed an unfavorable opinion on the package.

### **Environment: Sevan**

The draft law introducing additions to on Approving the annual and comprehensive action plans for Lake Sevan eco-system recovery, conservation, reproduction and use is directly associated with the two key components of the national security, that is food security and ecological security of the state. The great level of public interest toward the draft and heated political debate in the parliament were due to this very fact.

***Note:** The amendments made to the law will allow to increase the volume of water withdrawn from Lake Sevan by 70 million cubic metres til January 1, 2015 and set the maximum annual volume at 240 cubic metres (the maximum annual volume of the water withdrawal from the lake is 170 million cubic metres). According to the initial draft law the government intended to collect additional water for the next 5 years, till 2019. The parliamentary hearings on the topic and the criticism by the environmental organizations led the executive to limit the additional water withdrawal to 1 year. Initially, the volume stated in the government’s initiative was 240 million cubic metres and there were no discussions on changing the volume in the parliament. At the last minute 240 was increased to 270 millon cubic metres as proposed by the Government. .*

*The executive justified the need for raising the amount of water withdrawal from Lake Sevan by 40% with the reduction of the water in Ararat valley artesian basin by half, increased demand for irrigation in the region and growth in the dynamics of water losses in Sevan-Hrazdan hydroenergy system, around 18% instead of planned 7%.*

## Feedback from expert review

Even though the annual and comprehensive action plans for Lake Sevan eco-system recovery, conservation, reproduction and use is presented as a separate law, it is an integral part of the RA Law on Lake Sevan. This implies that neither the government nor the National Assembly have the right to make such amendments and additions to the law on Approving the annual and comprehensive action plans for Lake Sevan eco-system recovery, conservation, reproduction and use that will not be consistent with the Law on Lake Sevan. Neither the RA government, nor the RA National Assembly have the right to disregard the opinion of the expert commission on Lake Sevan conservation with authority stated in Article 19 of the RA Law on Lake Sevan. The commission had specifically required that no negative balance of the lake's level be allowed for water withdrawals over 170 million cubic metres.

## The issue of Lake Sevan in the election programs

*The draft law proposing amendments to the law on Approving the annual and comprehensive action plans for Lake Sevan eco-system recovery, conservation, reproduction and use was adopted in the extraordinary session of June 20, 2014 with 67 votes in favor and no votes against or "abstained". Only the RPA faction participated in the vote. The draft law passed first reading on April 29 with 96 votes in favor, 14 against, 4 abstaining. The RPA and PAP voted in favor, and the RoLP had abstained.*

All the factions without fail have approached the ecosystem in a general way with no indication of specific sectoral targets and challenges in their programs. The programs also fail to address the inherent logical relationship between the eco-environment and agriculture. The issue of environmental protection and use of natural resources is hardly viewed from the security perspective.

**"Heritage"**: the only parliamentary faction that talks about the need to revise the laws on Lake Sevan and on Approving the annual and comprehensive action plans for Lake Sevan eco-system recovery, conservation, reproduction and use in its program. However, it does not elaborate on the motives and purpose for these amendments and the expected outcome. Therefore, it is hard to judge to what extent the draft by the government is consistent with the logic of the program. The "Heritage" opposed the draft more out of political considerations and due to its status as opposition.

**ARF**: Unlike the other parliamentary parties adheres to the principle of putting all economic projects through ecological examination by experts and having the findings in the public domain. Essentially it is about the application of public oversight mechanisms. In this context the format of the draft law presentation, absence of environmental examination by experts and the fact of skipping public discussions conflicted with the ARF programmatic principles. From this standpoint the decision by the faction to vote against the draft law made sense.

**ANC:** In concepts of programmatic significance the specific issue of Lake Sevan ecosystem conservation, as well as issues of desertification and optimal use of underground waters are not reflected either from the standpoint of the environmental or agricultural significance. However, unlike other factions, the ANC has put its ecological security concept at the core of its election program thus regarding the environmental issues from the security perspective. Instead, during the parliamentary discussions it mainly stressed the existing corruption risks in the current situation, inefficient system management and absence of state oversight, which led the faction to not support the draft.

**RoLP** finds it advisable to come up with a programmatic approach as far as Lake Sevan conservation and eco-balance recovery are concerned. This is fully consistent with the Law on Approving the annual and comprehensive action plans for Lake Sevan eco-system recovery, conservation, reproduction and use. Presumably, the program is anchored in the approach of leaving the existing legislative regulation as it is.

Avoiding participation in parliamentary discussions the RoLP abstained in the vote for the draft law submitted by the government. This does not demonstrate indifference, but rather a political stance. In 2012, as part of the ruling coalition, the RoLP had supported the government's initiative to withdraw more water from Lake Sevan for irrigation purposes. It would not make sense if they opposed it this time.

**PAP.** The program does not specify in any context what the party means under the concept of ecological security. Also the role of Ararat Valley dehydration cause-and-effect relationship and the Lake Sevan ecosystem is not specified. This fact creates room for flexibility which was demonstrated in the vote on the draft law. The PAP viewed the issue mostly in the scope of prevention of consequences. Based on this and guided by the priority to fulfil the demand and meet irrigation needs of rural communities and businesses the faction in full voted in favor of the draft during the first reading. This was due to the acceptance by the executive of one major amendment to the draft law setting a 1-year term for the increase in water withdrawal from Lake Sevan instead of 5 years planned. By the way, in 2012 PAP had voted in favor of the draft by the government to increase nearly twice the set amount of Sevan water discharge, in order to meet the demand for irrigation. So we can assume, that no significant deviations were noted in the stance of the faction regarding the issue under review.

**RPA.** The political majority states the need for ecological balance recovery and conservation of Lake Sevan in their election program but the draft law submitted by the government which enjoys the trust of the majority, by its nature and goals stands in contrast to this vision. It would be incorrect to view RPA's position of supporting the initiative of the government solely through the prism of the election program. The threat of Ararat Valley dehydration and desertification threat has especially increased after the program was circulated. In the program of the new government, which was approved in this NA session as well, this key issue, as well as certain mechanism for overcoming it are reflected (design of a basin management plan for Ararat Valley, automated management system of water use metering for the recovery of the underground water balance and a more efficient use of renewable resources). In this sense, in RPA's case the supervision over the practical application of these mechanisms and effectiveness should be of primary importance. However the majority consistently avoids objective parliamentary discussion over the core reasons

for the drop in the level of artesian water, the tremendous losses in water withdrawn for energy and irrigation purposes. This demonstrates that the parliamentary majority has traditionally stayed true to the principle of backing the initiatives of the government.

## ETHICS COMMITTEE

The level of public trust towards the Ethics Committee that started its work in the parliament of the 5<sup>th</sup> convocation is gradually declining judging by the number of applications received. Over the second session the committee received 13 applications, in the third session 6, in the fourth session 2, and the fifth had 3 applications. For 2 out of 3 applications reviewed over the 5<sup>th</sup> session the Ethics Committee has made a decision to discontinue their review. And only for 1 case did it rule that the deputy Arakel Movsisyan had violated the norms of ethics.

- In the 5<sup>th</sup> session of the National Assembly of the 5<sup>th</sup> convocation the ad-hoc Committee on Ethics was set up with a delay. The spring session started on February 3, 2014, and the ad-hoc Ethics Committee held its first sitting on March 17.
- The ANC continued boycotting the work of the committee and the committee was again headed by the representative of the largest ruling faction, the Republican party. Davit Harutyunyan was succeeded by Hovhannes Sahakyan in the committee.
- The committee operated with 5 members like in the two previous sessions. In this setup and with RoLP becoming the opposition the ruling party was represented by only 1 RPA member. In order to secure the opposition-non-opposition balance in the committee the ruling power was not too quick in adding another 2 RPA members to the committee. Citing the NA Rules of Procedure that allowed setting up the committee at the start of the session, it was decided to complete the committee setup at the beginning of the fall session.
- For the first time the Ethics Committee received an application from a deputy regarding a question associated with himself.

During the 5<sup>th</sup> session of the 5<sup>th</sup> convocation the ad-hoc committee on Ethics has held 7 sittings discussing only 3 applications: Sinjar Yezidi National Union and Yezidi National Committee NGOs' application versus RPA deputy Manvel Badeyan, an application by journalists



Grisha Balasanyan, Anna Yeghiazaryan, Sargis Khandanyan and Hakob Karapetyan versus RPA member Arakel Movsisyan and Nikol Pashinyan's application that concerned the deputy himself.

Only for 1 of the 3 applications reviewed did the Committee decide that the deputy Arakel Movsisyan had violated the norms of ethics being disrespectful to the people participating in the discussion and the petitioners. This is the incident that occurred on December 13, 2013 during the ratification of gas agreements, when Mr. Movsisyan referring to the journalists entering the plenary had shouted out: "Get these monkeys out of here!" The decision of the committee was distributed to the deputies, since the head of the committee did not find it necessary to read it out from the NA floor though the NA Rules of Procedure gives such an opportunity. The demand of the journalists to have Arakel Movsisyan apologize to them was not answered either since according to the decision, the committee had no authority to impose disciplinary measures.

For 2 out of 3 applications the committee has made a decision to discontinue their review.

One of them was on the agenda of the committee since December of 2013. It concerns RPA deputy Manvel Badeyan. According to the petitioners, Sinjar Yezidi National Union and Yezidi National Committee NGOs Badeyan had violated the rules of deputy ethics and insulted the Yezidi citizens, saying in an exchange with journalists, "If a random Yezidi on the street asked that, I would be surprised. So, that's how you think?"

The committee had reviewed the publications on this topic and concluded that deputy Badeyan did not intend or aim to insult, so "the opinion expressed by him lacks intention or premediated action". As for the insult the commission had noted that it was not authorized to make a decision on the presence or absence of an insult.

The third application was authored by deputy Nikol Pashinyan. It concerned the possibility to head the editorial board of "Haykakan Zhamanak" daily. The committee discontinued the review of the application citing that it can issue a conclusion on deputy's engagement in creative or scientific and teaching work only when this work is paid, whereas Pashinyan's work in this board was going to be solely creative and with no compensation.