

# Monitoring of the National Assembly

## 6<sup>th</sup> Convocation | 3<sup>rd</sup> Session | 2<sup>nd</sup> Report

The publication of the report was made possible through the assistance of the Open Society Foundations-Armenia, grant #19730. The views and analyses contained in this report reflect the opinions of the authors and do not necessarily represent the positions and views of the Open Society Foundations-Armenia.

YEREVAN 2018

## TABLE OF CONTENTS

NA work in numbers	4
NA factions: proactiveness, engagement	7
NA legislative work	
• Tendencies in lawmaking	9
• The specific features of lawmaking	
The performance efficiency of the NA oversight function	
• The practice of electing state governance bodies	17
• The issue of legal contradictions in the process of lifting the Immunity of the deputies	25

## FOREWORD

Mandate NGO presents the monitoring results of the work of the National Assembly of the 6<sup>th</sup> convocation in the 3<sup>rd</sup> session. The summary was prepared by combining the journalist observations, expert reviews and the data of the statistical application of the *parliamentmonitoring.am* website.

The exercise of the new powers of the National Assembly in the new parliamentary government system and legislative and oversight functions have been the focus of the monitoring. The trends and indicators of the performance of the parliament were summarized, as well as details on initiatives and engagement of the NA factions.

Over the 3<sup>rd</sup> session of the NA of the 6<sup>th</sup> convocation the NA for the first time in Armenia's history elected a RA President, a Prime Minister vested with new powers, the President of the Constitutional Court as well as 5 out of 10 members of the Supreme Judicial Council, the supreme body of the judiciary being set up under the Constitution.

This process was accompanied by events in the public and political life, that drastically changed the state of affairs in the country and virtually led to situations that are unprecedented in the history of parliamentarism.

We covered the practice of electing state authorities and the legal issues in the process of lifting the immunity of deputies.

# National Assembly of the 6<sup>th</sup> convocation, 3<sup>rd</sup> session

## The session in numbers

During the 3<sup>rd</sup> session the National Assembly of the 6<sup>th</sup> convocation held 8 regular, 7 extraordinary and 4 special sittings. One extraordinary session was convened on July 11. All the extraordinary ones were initiated by the Government.

In the 3<sup>rd</sup> session the parliament adopted 314 laws. 24 out of these are *mother* laws and 290 are additions/amendments to the already operating laws. The National Assembly also adopted 9 laws-agreements.

295 out of 323 laws adopted or around 90% of them were authored by the government and 28 by NA deputies. The overwhelming majority of the laws adopted concerned the state and legal sectors.

In the 3<sup>rd</sup> session the National Assembly elected RA President, RA Prime Minister, members of the Supreme Judicial Council, CC member and Chairperson.

The parliament approved the program of the government, took into consideration the communications of the Central Electoral Commission, RA Prosecutor's Office, Defender of Human Rights, Central Bank, National Commission of Radio and Television for 2017 and the Annual Report of the Control Chamber.

## Behind the numbers

- In the 3<sup>rd</sup> session the parliament for the first time exercised its right vested by the Constitution to elect the president and prime minister of the republic.
- Three elections of prime minister were held in the parliament. The first one, the election of Serzh Sargsyan (17.04.2018), was accompanied by *Deny Serzh* protest movement. In the second elections (01.05.2018) the candidate of the parliamentary

minority, Nikol Pashinyan, did not get elected. The third time (08.05.2018) with 59 votes in favor and 42 against Pashinyan was elected prime minister.

- In support of the nationwide movement led by Nikol Pashinyan the ARF announced its exit from the coalition formed with the RPA in May of 2017.
- For the first time in the history of the parliament the RPA announced that it was becoming the opposition leading to an unprecedented situation when the largest parliamentary faction is the opposition.
- Following the exit of 8 deputies from the faction the RPA stopped being the absolute majority in the parliament. The faction that had 58 deputies at the beginning of the convocation numbered 50 deputies at the end of the 3<sup>rd</sup> session.
- The powers of 9 deputies were terminated during the session. Four deputies from “Yelk” moved to the government, 1 from RPA moved to the Constitutional Court, the rest put down their mandates as deputies.
- RPA faction deputy Manvel Grigoryan lost his immunity as a deputy. The parliament granted the motion of the Prosecutor General to imprison him and engage him as a defendant in the criminal case.
- 314 laws were adopted in the 3<sup>rd</sup> session of the 6<sup>th</sup> convocation. This number is around 3 times more than the figure for the 3<sup>rd</sup> session of the 5<sup>th</sup> convocation. More than half of the laws were adopted before the velvet revolution.
- The Government-NA ratio of legislative initiatives did not change in the 3<sup>rd</sup> session of the 6<sup>th</sup> convocation: 90% of the adopted laws were authored by the government.
- The number of draft laws adopted over extraordinary sittings and sessions has changed. The NA of the 5<sup>th</sup> convocation had adopted nearly every second law over an extraordinary session or a sitting, in a super expedited discussion mode set by the convener. In the first 3 sessions of the parliament of the 6<sup>th</sup> convocation hardly 1/3 of the laws were adopted over extraordinary sittings and sessions.
- In the 3<sup>rd</sup> session the deputies authored 49 draft laws. 19 of them were adopted. In the previous session 6 out of 49 draft laws authored by the deputies were adopted.

- Only one draft was discussed and declined in a vote. “Yelk” faction proposed adopting a statement on the events of March 1-2 of 2008.
- “Yelk” is the only faction which made an interpellation to the government during the session. It concerned electricity and gas tariffs, consumption volumes and losses.
- RPA faction has voted in favor the most while “Yelk” voted against the most. “Tsarukyan” faction abstained in the votes the most. The latter is also the most active faction of the session (the most active in the previous one was “Yelk”).
- On average each “Tsarukyan” faction deputy presented 6 questions and speeches. This figure is 5 for “Yelk”, 3 for RPA and 2 for ARF.
- The number of “silent” deputies holds in the NA of the 6<sup>th</sup> convocation. 41 out of 105 deputies did not participate in discussions in the 3 sessions and only voted (14 from “Tsarukyan” faction and 27 from RPA).
- In the 3<sup>rd</sup> session of the National Assembly of the 6<sup>th</sup> convocation no proposal was submitted to set up an ethics committee. The only proposal discussed in the previous session and postponed, which was to set up a committee to look into Artashes Geghamyan-Nikol Pashinyan incident was not included on the agenda of the 3<sup>rd</sup> session.
- 7 parliamentary hearings were held in the 3<sup>rd</sup> session of the National Assembly of the 6<sup>th</sup> convocation. 5 out of 9 committees organized hearings. The standing committees on Foreign Affairs, State and Legal, Defense and Financial-Credit Affairs did not hold hearings during the session.
- Only “Tsarukyan” and “Yelk” parliamentary factions initiated hearings. Hearings held by “**Tsarukyan**” faction regarding the procedure for writing out prescriptions and dispensing medication took place following the decision of the government to carry out the sale of medications from the pharmacies by prescription.

- The parliamentary hearings convened by “**Yelk**” faction concerned the events of March 1-2 of 2008. The hearings were followed by the discussion over the adoption of a draft NA statement regarding these events authored by “**Yelk**”.

## **NA factions. proactiveness, engagement**

**RPA factions:** Over the 3<sup>rd</sup> session<sup>1</sup> of the National Assembly of the 6<sup>th</sup> convocation the RPA authored 26 legislative initiatives. Nine of them were adopted, 11 drafts are still not included on the agenda and another 3 are on the session agenda.

According to [parliamentmonitoring.am](http://parliamentmonitoring.am) website statistics during the session deputy Khosrov Harutyunyan is the one who asked questions (15) and made speeches the most (12) in the Republican faction. Arsen Mikhailov has voted in favor the most, 174 times and Hakob Hakobyan has voted in favor the least (29)<sup>2</sup>. 14 RPA deputies have the highest figure for votes against, 9 times. Hayk Babukhanyan has abstained in the votes the most (8). Karen Karapetyan was absent the most (80 times).

The list of top ten deputies who voted in favor the most is made up exclusively of RPA members. No republicans are on the lists of top ten deputies who have voted against or abstained in the votes the most. The list of top ten absentees has 3 RPA members: Hermine Naghdalyan, Arpine Hovhannisyan, Samvel Farmanyanyan. The lists of top ten deputies who have asked questions and made speeches the most include RPA members Khosrov Harutyunyan and Eduard Sharmazanov.

**“Tsarukyan” faction:** Over the 3<sup>rd</sup> session of the National Assembly of the 6<sup>th</sup> convocation “Tsarukyan” faction authored 15 legislative initiatives. 4 of them were adopted while the inclusion of another 3 on the agenda was declined in a vote.

According to [parliamentmonitoring.am](http://parliamentmonitoring.am) website statistics during the session Mikayel Melkumyan asked questions (34) and made speeches (23 times) the most among “**Tsarukyan**” faction deputies. Vanik Asatryan and Vardan Bostanjyan voted in favor the most, 137 times,

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<sup>1</sup> Statistics includes data from the extraordinary sittings held over the 3<sup>rd</sup> session of the National Assembly of the 6<sup>th</sup> convocation and extraordinary sessions held after the end of it.

<sup>2</sup> Hakob Hakobyan became a deputy in May of 2018 replacing Grigor Avalyan who put down his deputy mandate. In the context of the entire session the Republican who had voted in favor the least is Karen Karapetyan

Vahe Enfiayyan and Gevorg Petrosyan voted against the most, 25 times, and Hakob Nazaryan and Tatyana Mikayelyan have abstained in the votes the most, 17 times.

Gagik Tsarukyan heads the list of top ten absentees of the parliament. This list has another 4 deputies from “Tsarukyan” faction. The list of top ten deputies abstaining in the votes the most is made exclusively of “Tsarukyan” faction deputies. Mikayel Melkumyan heads the list of top ten deputies who asked questions the most. This list of top ten has another 5 deputies from the faction. Half of the people on the list of top ten deputies who made speeches the most are from “Tsarukyan” faction. Mikayel Melkumyan heads the list of top ten.

**“Yelk” faction:** Over the 3<sup>rd</sup> session of the National Assembly of the 6<sup>th</sup> convocation “Yelk” faction authored 15 draft laws. 5 of them were adopted, 5 were not included on the agenda, 4 are on the session agenda. 1 draft of the faction was discussed and declined in a vote. “Yelk” is the only faction that made an interpellation to the government during the session. It concerned electricity and gas tariffs, consumption volumes and losses.

According to [parliamentmonitoring.am](http://parliamentmonitoring.am) website statistics during the session Edmon Marukyan is the deputy who voted in favor the most in the “Yelk” faction. He is also the faction deputy who asked questions (9) and made speeches (9) the most. On the list of top ten deputies who asked questions and made speeches the most Marukyan is the only “Yelk” representative.

Aram Sargsyan voted against the most in the faction (60 times). He heads the list of top ten deputies voting against, at that Yelk” faction members make one half of the list. “Yelk” is not represented on the list of top ten deputies abstaining in the vote. The top absentee of the faction is Sasun Mikayelyan (63) being the only “Yelk” representative on the list of top ten absentees.

**ARF faction:** Over the 3<sup>rd</sup> session of the National Assembly of the 6<sup>th</sup> convocation the ARF did not author any drafts. With the other factions it has co-authored 3 of the adopted laws and 2 drafts included on the session agenda.

According to the statistics of the [parliamentmonitoring.am](http://parliamentmonitoring.am) website during the session Armenuhi Kyureghyan is the ARF faction deputy who has asked questions the most (6 times), and Armen Rustamyan has made speeches the most (4 times). On the list of top ten deputies who asked questions (Armenuhi Kyureghyan) and made speeches (Armen Rustamyan) the most they are the only ones representing ARF.

Suren Manukyan voted in favor the most (172), and 5 ARF members voted against the most, 3 times. The faction deputy with the most absences was Armen Rustamyan (47), who is also



present on the list of top ten absentees in the parliament. The lists of top ten deputies voting in favor, against or abstaining the most do not have any ARF deputies.

## **NA legislative work**

The plan for the 3<sup>rd</sup> session of the NA 6 convocation started on January 15, 2018 was to finalize the transfer process from a semi-presidential system to a parliamentary one. The parliament had to finalize the process of bringing the legislative framework into compliance with the Constitution amended in 2015. The clauses of the Constitution and NA Rules of Procedure that equip the parliament with new levers of oversight towards the work of the government were to come into full effect, increase the political role of the National Assembly and expand the participation of the oppositional minority in the decision making process.

**During the session the National Assembly, for the first time exercised a number of important functions vested in it by the constitutional amendments: it elected Supreme Judicial Council members, chairperson of the Constitutional Court, president of the republic. The culmination of this stage was the first election of the prime minister by the National Assembly through open, individual vote. On April 17 the parliament elected RPA leader Serzh Sargsyan Prime Minister.**

After April 17 the political events in Armenia unfolded in line with the logic of the “velvet revolution”. By the demand of the nation-wide movement Serzh Sargsyan resigned as the prime minister on April 23, which necessitated holding of election of the prime minister in the National Assembly. On May 8 the candidate of the parliamentary minority, “Yelk” faction leader Nikol Pashinyan was elected Prime Minister.

We are witnessing a unique political situation in Armenia with the minority forming the government and the parliamentary majority announcing their decision to becoming the opposition.

## **Tendencies in lawmaking**

**In the 3<sup>rd</sup> session the NA lawmaking process was implemented in two different environments-before the velvet revolution and after it. The tendencies in legislative work however remained unchanged. The NA-Government ratio with regard to authoring laws and the voting logic of the factions carried on.**

90% of the laws adopted over the 3<sup>rd</sup> session, as in the previous sessions, were authored by the Government.

In the first half of the session the government came forth with an extremely intense agenda of legislative amendments. The main part of the initiatives sought to secure the legislative foundation for the transition from a semi-presidential system to a parliamentary one as well as the transfer of key presidential powers to the prime minister.

**2/3 of around 300 laws adopted over the session were submitted by the government and discussed in the parliament in January-March. In the second half of the session the NA adopted 81 laws which barely make 1/3 of the total.**

Following the velvet revolution the majority of the draft laws presented by the new government are in fact authored by the former government. They were discussed in the NA due to being already included on the greater agenda and in order not to disrupt the operation of the public administration system as well as given the fact that these were already approved through decisions of the government.

In the new political situation inside the country the RPA voted in favor of the projects of the new government not willing to be seen as openly confrontational. The other factions did not object to these drafts since they were presented by the government formed through their vote of confidence.

### **Extraordinary sittings and sessions as a “tool” for the Government**

**The practice of convening extraordinary sittings and sessions essentially did not change. All seven extraordinary sittings and one session of the 3<sup>rd</sup> session were initiated by the government.**

The unprecedented number of extraordinary sittings and sessions was seen due to the exceptional nature of the political situation. 1 out of 7 extraordinary sittings was convened to discuss the program of the new government, another one was to discuss the motions by RA Prosecutor General to lift the immunity of deputy Manvel Grigoryan.

The fact that 4 special NA sittings were held, which is an exceptional number for one session, should also be viewed within this logic. One of them was convened for the RA President to take office, the other 3 in order to elect RA Prime Minister.

This most important political and lawmaking tool of the parliamentary forces continues being inapplicable despite the fact that the political ratio formed in the NA allows the parliamentary forces to get to the stage of holding the sittings.

The tendency of including a small number of drafts on the agenda of extraordinary sittings and sessions solidified. If in the NA of the 5<sup>th</sup> convocation almost half of the laws adopted in one session were presented by the government through an extraordinary agenda, in the 3<sup>rd</sup> session of the NA of the 6<sup>th</sup> convocation already around 1/3 of the laws were adopted in an extraordinary mode. The new procedure set by the NA Rules of Procedure fully provides conditions for the adoption of the drafts on the agenda during the regular sittings.

### **New records of fast adoption of the laws**

**Over the regular and extraordinary sittings and sessions of the 3<sup>rd</sup> session of the NA of the 6<sup>th</sup> convocation 314 laws were adopted. Such a number of laws had not been noted in any of the previous convocations.**

If the NA of the 5<sup>th</sup> convocation adopted 112 laws in the 7<sup>th</sup> session and 116 in the 8<sup>th</sup> session, this number doubled in the 2<sup>nd</sup> session of the NA of the 6<sup>th</sup> convocation. During this period the NA adopted 252 laws. In the 3<sup>rd</sup> session the number of draft laws adopted increased by 25% in comparison to the 2<sup>nd</sup> session. Often the parliament exhausted the agenda of 4-day sessions in 2-3 days. These record figures were seen during a session that was outstanding in terms of unpredictability of political developments.

The reason for this is the legal regulation set in the NA Rules of Procedure introducing considerable restrictions in the discussion timeline of the drafts. This significantly undermines the purpose of the discussion process turning it into a formal process of superficial discussions of drafts and votes on them.

NA Rules of Procedure were drafted with the logic of shifting the substance-based discussions over drafts to the realm of NA Standing Committees to basically increase the practical significance of the committees, but as a result the substance and aims of the draft laws and the matters they regulate remain not fully elaborated and discussed for the majority of deputies as well as for public and professional circles. The issue is especially relevant in the discussion of legislative packages which can contain several dozen drafts.

### **The proactiveness of the deputies and the growing loyalty towards the minority**

The number of drafts authored in the 2<sup>nd</sup> and 3<sup>rd</sup> sessions by the factions is the same, 49 draft laws. Certain changes within the structure are seen in the ratio of initiatives of the factions. Specifically, the number of adopted drafts authored by deputies has tripled (2<sup>nd</sup> session-6, 3<sup>rd</sup> session-19). This considerable difference is due to the change in the positioning of the parliamentary forces and RPA's loss of absolute majority. The thing is before the velvet revolution the parliamentary majority pursued a pronounced policy of essentially rejecting

initiatives by the political minority. The change of power brought forth a new environment of mutual loyalty in the NA. Interestingly, in contrast with the 2<sup>nd</sup> session the RPA, which lost its power, registered a 1/3 increase in the number of adopted draft laws that they authored. The number of the adopted draft laws authored by “Tsarukyan” alliance doubled. In contrast with the previous session, when no draft by “Yelk” faction was adopted, it has 5 adopted draft laws over the last session.

The increase in the number of adopted draft laws authored by the deputies sets conditions for the more active engagement in lawmaking and proactiveness of the factions which can lead to a change in the nearly constant NA-Government ratio of 90/10.

### **Untapped resources**

The Constitution coming into full force on April 9 as well as the NA Rules of Procedure lay the legal groundwork for the exercise of the new functions of the government. However during the 3<sup>rd</sup> session the NA factions did not demonstrate a great desire to exercise them.

- Upon demand of at least 1/4 of the total number of deputies a review committee can be set up in order to inquire into the issues in the purview of the National Assembly and of public interest (with the exception of areas of defense and security). Oppositional factions can chair them. During the 3<sup>rd</sup> session of the NA no initiative to set up a review committee was heard.

- NA factions are given an opportunity to make an interpellation to the government and based on the response and its discussion they can raise the issue of further holding of office by certain members of the government and even take it all the way to vote of no confidence to the prime minister. “Yelk” is the only faction that made an interpellation to the government during the session. It concerned electricity and gas tariffs, consumption volumes and losses. “Yelk” had exercised its right to make an interpellation in the previous session as well. This consistency is noteworthy from the standpoint of developing a culture of application of mechanisms vested in the parliamentary opposition and making them elements in politics.

- The factions are given the opportunity to include the draft laws authored by them and recognized extraordinary on the agenda of the plenary sittings in case of an unfavorable conclusion of the lead committee. NA factions did not avail this opportunity during the session.

## **Specific features of lawmaking**

In the first half of the 3<sup>rd</sup> session of the NA of the 6<sup>th</sup> convocation the government came forth with an extremely intense agenda of legislative amendments. The main part of the initiatives were to secure the legislative foundation for the transition from a semi-presidential system to a parliamentary one as well as the transfer of key presidential powers to the prime minister.

With the adoption of draft laws the government system underwent changes which vested the RA prime minister with further levers of state power and essentially a toolset of single-handed governance.

**2/3 of around 300 laws adopted over the session were submitted by the government and discussed in the parliament in January-March. In the second half of the session the NA adopted 81 laws which barely make 1/3 of the total.**

In January-March the National Assembly adopted a number of important laws transferring key presidential powers to the prime minister: laws on Pardon, Setup and Operation of the Security Council, Structure of the government and its operation, State Awards and Honorary Titles.

## **The Security Council as a “sub-government”**

**In January of 2018 the government presented to the National Assembly the draft law on the Setup and Operation of the Security Council. It was adopted with 84 votes in favor and 4 votes against. Coalition partners RPA and ARF as well as “Tsarukyan” faction voted in favor of the final version of the draft. “Yelk” voted against the draft law.**

The legislative initiative ensures legal mechanisms for the implementation of Article 152 of the Constitution, stating that, “the Prime Minister shall head the Security Council and the procedure for the formation and rules of operation thereof shall be prescribed by law.”

Under the law the Security Council can discuss matters concerning the security, territorial integrity and inviolability of borders of the Republic of Armenia, if such proposal is made by the prime minister. In other words, this is an exceptional authority vested in the prime minister. In fact no other member of the Security Council can initiate a discussion on these matters, if the proposal does not receive the approval of the prime minister.

The council comprises the Prime Minister, first Deputy Prime Minister, Deputy Prime Ministers, Secretary of the Security Council, Ministers of Defense and Foreign Affairs, the Director of the National Security Service, Chief of Police and Chief of Defense of the Armed Forces. Unlike the previous procedure, the Prosecutor General, the Chairperson of the Constitutional Court, the President of the Republic and the Chairperson of the National Assembly are not members of the Security Council. It is made up of members of the government and heads of bodies operating under the prime minister. Through this setup of the Security Council the government is in fact working to create a mechanism that would guarantee a council which is fully subordinate to the prime minister. And this is notwithstanding the fact that in a situation threatening the inviolability of the RA borders and territorial integrity the National Assembly is assigned a key role in decision making regarding issues like holding of a referendum, declaration of war or peace.

Under these regulations of the law on the Setup of the Security Council and its operation the Prime Minister is conferred the right to single-handedly dictate the agenda in the Security Council and the principle of collective decision making is violated. Denying the parliament and the judicial system the opportunity to participate in decision making regarding the security and defense of the country sets up a mechanism to essentially circumvent the Constitution and force the decisions of the executive on the other branches of the government.

### **“Taking away” clemency powers from the president**

**The Law on Pardoning along with amendments proposed in related laws passed the second reading and was adopted in full on March 7 with 63 votes in favor and 31 against. “Tsarukyan” and “Yelk” factions voted against.**

Article 135 of the Constitution states that the President of the Republic shall decide on the issue of granting pardon to convicts in the cases and under the procedure prescribed by law. However under the law on Pardoning adopted in March of 2018 the decisive role and the primary mandate rests with the RA Prime Minister. The law violates the scope of constitutional authority of the RA President and in fact the National Assembly, represented by the political majority at the time, has assumed the considerable share of responsibility for that.

By law the initiative to grant pardon to a person shall come exclusively from the prime minister who enjoys the exclusive authority to put the clemency petition up for discussion before the advisory commission on Review of Pardoning Issues. The conclusions of the commission are of advisory nature for the prime minister. This implies that he/she can

altogether disregard the position and reasoning provided in the conclusion. Under Article 12 of the law the setup of the commission and its mode of operation is also approved by the Prime Minister. The Prime Minister can present the President of the Republic the recommendation to grant pardon to the person submitting the clemency petition or to decline it to without putting up the matter for discussion before the commission.

The president has no legal levers to stop the execution of the prime minister's recommendation (in reality decision) on granting pardon. Even in cases when the president does not agree with the prime minister's initiative to grant pardon to the person and returns the respective recommendation back to the prime minister with his/her objections, the prime minister can without accepting these objections turn to the president once more for his/her signature in which case the latter shall either sign it or apply to the Constitutional Court. In case of not doing the latter the draft decree submitted by the prime minister on granting pardon shall be deemed adopted by force of law. Essentially, this solves the issue of denying the president another operational authority given the possibilities of broad interpretation of the formulations in the relevant constitutional regulation. Even the preparation of the draft presidential decree on granting pardon is assigned to the prime minister, and all that the president is left with is the dilemma of signing or not signing the text of the decree.

### **Government structure- a subject of conflict of interest**

**The Law on the Structure of the government and its operation with draft amendments proposed in 62 related laws was the largest legislative package discussed by the parliament in the 3<sup>rd</sup> session. It passed the second sitting and was adopted in full over the extraordinary sitting of the NA convened on March 23 with 63 votes in favor and 26 votes against. “Tsarukyan” and “Yelk” factions voted against.**

The move to change the structure of the executive stemmed from the need to clarify the functions determined by the constitutional amendments which broadened the prime minister's scope of authority, introduced the concept of deputy prime ministers as well as new bodies. The package, in essence, created a “prime minister-centered” executive government.

Article 5 of the law on the Bodies of state governance system included in the package stated that the National Security Service, the Police, state oversight and protection services become bodies subordinate to the prime minister. Previously the first two had the status of bodies adjunct to the government. In the course of parliamentary discussions the government did not sufficiently explain what issues with regard to protection of state and public order and

provision of security were caused by the previous structural solution where the Police and National Security Service were bodies adjunct to the government, and what warranted their shift under the sole subordination of the prime minister. The parliamentary opposition believed that bringing the key law enforcement authorities under the subordination of the prime minister provided a wide opportunity to impact the legal-political processes.

The introduction in the same legislative package of the posts of three deputy prime ministers and especially the first deputy prime minister allows the prime minister to distribute among them the sizable share of executive responsibility. The Prime Minister is also in charge of determination of sectors and functions to be coordinated by deputy prime ministers and the scope of authority of the first deputy prime minister while substituting the prime minister. The decision to offer two seats to the prime minister—one in the Government building and the other one at the former seat of the President<sup>3</sup>, was also symbolic.

Article 10 of the law on the Structure of the government and its operation contains a formulation which replaces the public mode of holding sittings with one behind close doors. The authors explained such a limitation of public accessibility and transparency by the necessity to create a more relaxed environment at the sittings of the government and give an opportunity to freely express positions regarding the questions discussed. Tellingly, the government that initiated the change held its sittings publicly and the most recent government operating behind the closed doors was the one in 2007-2008 under Serzh Sargsyan as the Prime Minister.

Article 10 of the law also states that the heads of staff of the president of the republic, the National Assembly and prime minister, as well as the heads of the state revenue committee, urban development committee, nuclear safety regulation committee, statistical service, real estate cadastre committee and the heads of the bodies reporting to the prime minister, the press secretary of the prime minister, as well as other persons invited by the prime minister have the right to attend the sittings of the government. Under the new regulations the heads of all autonomous structures, the Prosecutor General, the Defender of Human Rights, the Yerevan Mayor were actually denied the right to attend the sittings of the government. The deputies are also denied this opportunity whereas their presence at the sittings is one of the ways to exercise the constitutional authority of performing oversight of the work of the government.

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<sup>3</sup> The decision was adopted over the sitting of the government on April 5



## **Electing bodies of state governance**

The Constitution which came into full force on April 9 vested the National Assembly with the authority to elect the leadership of practically all bodies of state governance including those with a constitutional status, and in some cases to also recall them. So the parliament bears direct responsibility for their work and performance.

The 3<sup>rd</sup> session of the NA of the 6<sup>th</sup> convocation was outstanding in its significance in several aspects.

**During this period for the first time in the history of Armenia the National Assembly elected RA President, Prime Minister vested with new authorities and with a significant part of the state and political power consolidated in his hands, as well as Chairperson of the Constitutional Court, and 5 out of 10 members of the Supreme Judicial Council, the supreme body of the judiciary being set up by force of the Constitution.**

This process was accompanied by events unfolding in the public and political life, which drastically changed the state of affairs in the country and virtually led to unprecedented consequences in the history of parliamentarism. The appointments taking place before the political reshuffle were cardinally different from those made during and after it.

## **Elections in the parliament before the velvet revolution**

### **The election of the members of the Supreme Judicial Council**

According to Article 173 of the Constitution, the Supreme Judicial Council shall be an independent state body that guarantees the independence of courts and judges. 5 out of 10 members of the Supreme Judicial Council are elected by the National Assembly, and the other 5 by the General Assembly of Judges.

Under the Constitution the powers of the Supreme Judicial Council commence from the moment the 4<sup>th</sup> RA President takes office, on April 9, 2018. However to ensure a smooth process the provisional clauses of the Judicial Code state that candidates for 5 of the members of the Supreme Judicial Council shall be nominated in the NA by February 22, 2018.

Five of the members of the Council were nominated by the RPA and ARF factions of the NA. These were CC Chairperson Gagik Harutyunyan (for a 5-year term), Constitutional Court advisor Gevorg Danielyan (for a 5-year term), YSU docent Liparit Melikjanyan, holding a

PhD in Law (for a 5-year term), Hayk Hovhannisyan, President of the Self-regulated organization of mediators of Armenia (for a 3-year term) and Sergey Meghryan, head of the civil procedure department of the Faculty of Law (for a 3-year term). Following their election by the NA the newly elected Supreme Judicial Council elected Gagik Harutyunyan as the head of the council from among their members.

## **The election of the Chairperson of the Constitutional Court**

**On March 21 the parliament elected former Head of the NA Standing Committee on State and Legal Affairs Hrayr Tovmasyan as chairperson of RA Constitutional Court through voting by secret ballot, with 64 votes in favor and 27 against. He was a RPA faction deputy in the National Assembly and RPA member since 2012. In 2013 he was engaged in the professional commission on constitutional amendments operating under the president and became one of the key “architects” of the constitutional amendments adopted through the referendum of 2015. Earlier, on March 2, the NA had elected Hrayr Tovmasyan Judge of Constitutional Court and on March 5, the NA Chairperson Ara Babloyan had announced that on March 1 Gagik Harutyunyan had resigned as Chairperson of the Constitutional Court.**

The Constitution prescribes that within 30 days of the office of the Chairperson of the Constitutional Court becoming vacant and upon the recommendation of the Chairperson of the National Assembly, the new chairperson shall be appointed from among the members the Constitutional Court.<sup>4</sup>

The operating constitutional law on the NA Rules of Procedure does not set a specific procedure for the appointment of the CC Chairperson which implies that this matter is regulated by Article 141 of this law concerning the election of the judge of the Constitutional Court. Clause 6 of this article states that the question of election of the judge of the Constitutional Court is discussed after the nomination of the candidate in the upcoming regular sittings of the National Assembly. Even if the NA Chairperson proposed nominating Hrayr Tovmasyan for the post of the Chairperson of the Constitutional Court immediately after March 23, in the best case scenario the matter could be settled only on April 10 since the upcoming regular 4-day sittings of NA commenced on that day. In this case the appointment process of the CC Chairperson had to be regulated by the Constitutional amendments coming into full force on April 9 along with regulations set in the chapter on the Constitutional Court stating that the CC Chairperson is elected not by the National Assembly but by the Constitutional Court from among its members. In addition, unlike the

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<sup>4</sup> RA Constitution, Article 83, Clause 2

previous legal constitutional regulations which stipulated that the CC Chairperson shall hold office til the age of 70, under the new constitutional amendments this term was limited to 6 years and no second term was provided.

At the same time, Article 213 of the Constitution states that the Chairperson and members of the Constitutional Court appointed prior to the entry into force of Chapter 7 of the Constitution, that is April 9, 2018, shall continue holding office until the expiry of the term of their powers specified in the Constitution with the amendments of 2005.

The combination and analysis of the above-mentioned legal regulations show that this multi-step political operation was performed to offer Hrayr Tovmasyan the post of CC chairperson as a gift before the recently amended Constitution came into force. This way two objectives were achieved at once. One was to allow Hrayr Tovmasyan to hold the post of the chairperson of the Constitutional Court til the age of 70, and the second one was not to allow his appointment to this post be contingent upon the composition of the Constitutional Court in which case the opportunity to guarantee the achievement of that political objective would decrease significantly.

### **Election of the RA President**

Under the recent amendments to the RA Constitution most of the state governance functions of the president of the republic are removed and distributed between the parliament and the government.

**Under the Constitution<sup>5</sup> the RA President shall be elected for a term of seven years by the parliament without a possibility of re-election. A person that is non-partisan, having attained the age of forty, having held citizenship of only the Republic of Armenia for the preceding six years, having been permanently residing in the Republic of Armenia for the preceding six years, having the right of suffrage and having command of the Armenian language may be elected as President. The deputies are conferred the exclusive right to nominate a presidential candidate on the initiative of at least 1/4 of their total number. Due to the existence of 105 mandates in the NA of the 6<sup>th</sup> convocation, 26 is the minimum threshold. The factions are in fact denied that right.**

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<sup>5</sup> RA Constitution, Article 124

Constitutional legal regulations for the election of the RA President stem from the logic of basically pushing forward the candidate nominated by the political majority even though it may appear that the idea is to lay the groundwork for consensus between the political majority and minority and drive factions towards dialogue. As per the Constitution<sup>6</sup> the candidate receiving at least 3/4 of the votes of the total number of deputies in the NA is elected president of the republic (minimum 76 deputies). Presumably the RPA-ARF coalition having 64 deputies would hold political talks with the other two oppositional factions in order to nominate a candidate that would succeed. However no such process took place around the question of Armen Sargsyan's candidacy in the parliament. The reason can be found between the lines of the subsequent legal regulations of the same article of the Constitution. If the president of the republic is not elected with the 3/4 of the votes of the deputies through voting by a secret ballot, a second round of election is immediately held, where the candidate receiving at least 3/5 of the votes of the total number of deputies (in this case 64 votes) gets elected, and again, if not elected, a third round is immediately held in which the candidate who receives more than half of the votes of the total number of NA deputies (minimum 53) gets elected.

“Yelk” faction had announced its intention to nominate a presidential candidate as well, however due to having only 9 deputies they did not manage to win the support of the other oppositional “Tsarukyan” faction to secure the required 26 signatures of deputies in order to nominate a candidate. As a result, only the candidacy presented by the political majority coalition was discussed in the parliament.

Despite the fact that this was the first time in the history of the parliament to elect a head of the state, as the governing entity under the constitution, the discussion around Armen Sargsyan's candidacy that took place in the parliament on March 1 was not as heated as expected (only 7 questions were asked and 11 speeches were made).

**On March 2 the parliament voted by secret ballot and with 90 votes in favor, in the very first round elected Armen Sargsyan as the 4<sup>th</sup> President of the Republic of Armenia (the 1<sup>st</sup> under the parliamentary government system) disregarding the obvious issues with constitutionality. The ceremony of taking office took place on April 9 as proposed by the Chairperson of the National Assembly and in accordance with the procedure stated in the decision of the NA Council. From that moment a parliamentary government system was established in the Republic of Armenia.**

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<sup>6</sup> RA Constitution, Article 125

## **The fundamental issue of legitimacy of the election of the RA President**

Article 124 of the Constitution states that everyone having held citizenship of only the Republic of Armenia for the preceding six years, having been permanently residing in the Republic of Armenia for the preceding six years may hold the office of the President of the Republic. Public and political circles had serious doubts that Armen Sargsyan did not meet these requirements. “Yelk” citing the documents received from the Embassy of the United Kingdom in Armenia, insisted that he had been a British citizen til 2014. Only upon persistent demands voiced only by “Yelk” deputies during the discussions in the NA, the RPA who had nominated Sargsyan was forced to present a letter received from the RA Police stating that Sargsyan had been a RA citizen in the past 6 years and had been registered on a permanent basis in Armenia. However no grounds were presented to support the fact of presidential candidate's renunciation of British citizenship before March of 2012.

In this sense the question of legitimacy of the election of the president remained open. The parliament itself caused this legitimacy crisis over the election of Armen Sargsyan. Rather than being led by the key principle of the state of law to dispel the doubts of the public and ensure the completeness of grounds, it was led by the intention to satisfy the political calculations of the parliamentary majority. So the fundamental principles of parliamentarism were subordinated to serving the partisan and personal interests yet another time.

## **Elections in the parliament during and after the velvet revolution**

### **The election of the RA Prime Minister: Serzh Sargsyan**

**During the 3<sup>rd</sup> session the parliament for the first time exercised its right vested by the Constitution to elect a prime minister. Three elections of prime minister were held in the parliament. The first one, the election of Serzh Sargsyan (17.04.2018), was accompanied by “Deny Serzh” protest movement. In the second elections (01.05.2018) the candidate of the parliamentary minority, Nikol Pashinyan, did not get elected. The third time (08.05.2018) with 59 votes in favor and 42 against Pashinyan was elected prime minister.**

In January, around two months before the expiry of the president's term of office<sup>7</sup>, the parliament amended the procedure of electing a prime minister as part of the legislative package submitted by the government. Before this the respective article of the NA Rules of

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<sup>7</sup> The amendments to the NA Rules of Procedure were included in the package of legislative amendments, submitted together with the Law on Constitutional Court and were adopted in the January 17 sitting.

Procedure stated that the matter of electing a prime minister is discussed after the deadline for nomination of candidates, in the upcoming regular sittings of the National Assembly. Under this legal regulation the question of election of the prime minister had to be discussed in the regular 4-day session commencing on May 2. The amended Article of the NA Rules of Procedure<sup>8</sup> states that the question of election of the prime minister is discussed on the following day of expiration of the 7-day term for nomination of candidates, over the special sitting of the National Assembly to be convened by force of law.

NA Rules of Procedure also state that the prime minister is elected via roll calling voting by the majority of the total number of deputies. It is noteworthy that out of all elections of heads of other bodies of state governance or other authorities by the parliament (including the NA leadership) the election of the prime minister is the only one for which the open voting mode is chosen as an exception.

Under the Constitution the NA factions have the exclusive right to nominate a candidate for prime minister. Before the deadline of April 16 set by law, the coalition partners RPA and ARF jointly exercised their right to nominate a candidate for prime minister. An alternative candidate was not nominated.

The special sitting convened on April 17 to discuss the election of the prime minister was accompanied by mass movement of disobedience unfolded in the capital. Since March 31 Nikol Pashinyan, the leader of “Yelk” faction of the National Assembly and “Civil Contract” party represented in the faction had started a nationwide rally to stop the course of Serzh Sargsyan's election as Prime Minister. Having started with a march from Gyumri to Yerevan, under the slogan “Take a step” and continued on April 13 in France Square of Yerevan and adjacent streets in the shape of ongoing rallies and sit-in strikes, blockades of public and state protected facilities, it gradually turned into mass acts of disobedience and practically uncontrollable nationwide movement.

All 4 NA factions attended the special sitting with the exception of 4 deputies representing Civil Contract Party of “Yelk” faction. The discussions proceeded with a complete disregard of the events unfolding on the street. This confirmed the existence of two different realities inside and outside the walls of the parliament. The majority and its candidate for prime minister tried to convey the impression that they were fully in control of the situation and events unfolding outside could lead to no consequence.

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<sup>8</sup> NA Rules of Procedure, Article 140, Point 3

**Serzh Sargsyan was elected Prime Minister with 77 votes in favor and 17 votes against. Sargsyan was Prime Minister for only one week.**

### **The next two elections of the RA Prime Minister: Nikol Pashinyan**

The prompt resignation of the first prime minister under Armenia's parliamentary government system launched the procedure set by the Constitution according to which in the event of prime minister's resignation or in other cases when the post of the prime minister remains vacant, the National Assembly factions, following the acceptance of government's resignation, nominate candidates for prime minister within 7 days. "Yelk" faction, based on the high level of public trust towards the head of the faction and the leader of the nationwide movement Nikol Pashinyan, and given the support voiced by ARF and "Tsarukyan" factions nominated Nikol Pashinyan as prime minister thus breaking all perceptions and the culture associated with the "winning majority" established in the Armenian parliamentarism.

RPA faction did not nominate a candidate, despite the fact that key state governance levers were in the hands of the RPA first Vice-President, acting RA first deputy Prime Minister Karen Karapetyan and the parliamentary majority had all the opportunities to nominate a candidate for prime minister as well as elect such. The parliamentary majority officially announced that the faction "will not prevent" the election of the minority candidate.

**102 deputies registered for the NA special sitting held on May 1 and 100 participated in the vote. With 45 votes in favor and 55 votes against Nikol Pashinyan was not elected prime minister.**

The outcome of the vote launched the subsequent procedure set by the Constitution, according to which in case of failure to elect prime minister, a new election is held 7 days after the voting, however the candidates shall be nominated not by factions, but by at least 1/3 of the total number of NA deputies. The RPA once again chose not to nominate a candidate for prime minister. The lowest threshold of 35 signatures was secured by deputies of "Yelk", ARF and "Tsarukyan" factions and Nikol Pashinyan was nominated again. Over the extraordinary NA sitting convened on May 8, with the support of the political majority, with 59 votes in favor and 42 votes against "Yelk" faction leader Nikol Pashinyan was elected

**as the 16<sup>th</sup> Prime Minister of Armenia. “Yelk”, “Tsarukyan” and “Federation” factions and 13 deputies from RPA faction voted in his favor.**

Both times Nikol Pashinyan's elections as prime minister can be described as unprecedented for Armenian parliamentarism:

- For the first time in the history of the parliament the political minority not only managed to propose a candidacy in the parliament that had no alternatives (in the context of obvious and concealed resistance of the political majority), but also secure the victory of its candidate. The “center of gravity” of political decision making shifted from political backstage to the square and the ruling political team lost the ability to influence the square in any way.
- For the first time the society succeeded in driving the parliament towards a specific outcome of the vote. In the entire history of the 3<sup>rd</sup> Republic of Armenia the public never had such an indirect impact on the decision adopted by the parliament and an individual deputy as on May 1 and May 8, which actually determined the future course of events.
- For the first time in Armenia the so-called borderline procedure of electing the head of the state was applied. Had it not been possible to elect a prime minister in the second round of election either, the National Assembly would need to be dissolved by force of law.
- For the first time we witnessed a situation when the parliamentary minority assumed responsibility for the work of the government and the relative majority became opposition.

## **Failed elections of Constitutional Court members**

**Under the Constitution nine of the judges of the Constitutional Court shall be elected by the National Assembly with at least 3/5 of the total number of deputies for a term of 12 years.** The president of the republic, the government, the General Assembly of the Judges are given the authority to nominate 3 candidates each. A lawyer with higher education, who has reached the age of 40, a RA citizen only, having electoral rights, high professional and moral qualities and at least 15 years of professional work experience, with command of Armenian language can be elected judge of Constitutional Court. For the candidate nominated by the General Assembly of Judges an additional requirement exists that he/she has to be a judge.



During the 3<sup>rd</sup> session the National Assembly discussed two candidacies for CC judge. None of the candidates got elected. The first election took place on May 4. The RA president had nominated Emil Babayan's candidacy, who enjoyed the support of the parliamentary majority. As a result of the vote taken in the state of boycott by the parliamentary opposition the candidate received 53 votes instead of needed 63.

The second candidate, judge Yelizaveta Danielyan of the Criminal Chamber of the RA Court of Cassation was nominated by the General Assembly of Judges. On June 13, again in the situation of boycott by the parliamentary opposition, the candidate secured only 36 votes.

In the course of NA discussions the civil society set forth the demand for sufficient transparency of the entire process of nomination of candidates and revision of procedures. Perhaps upon consideration of this fact following the failed election of Emil Babayan the RA President applied to the Constitutional Court contesting the ten-day time restriction for nomination of a new candidate.

### **The issue of legal contradictions in the process of lifting deputy's immunity**

During the 3<sup>rd</sup> session the parliament dealt with the process of lifting deputy's immunity twice. The first time it concerned the leader of "Yelk" faction Nikol Pashinyan, the second one-RPA faction member, president of "Yerkrapah" Volunteer Union Manvel Grigoryan. These processes, different in procedures and outcomes, revealed certain issues regarding legal regulations and their application.

### **Nikol Pashinyan's arrest and the NA sitting that never took place**

On April 22, on Artsakh Street in Yerevan while leading yet another march of the nationwide movement, 3 deputies representing "Yelk" faction of the National Assembly, Nikol Pashinyan, Ararat Mirzoyan and Sasun Mikayelyan were at once forcibly removed from the area by the law enforcement officers.

As clarified by the Office of the Prosecutor General the deputies were arrested in the scope of the criminal case handled by the Special Investigative Service to prevent perpetration of the crime due to a direct suspicion<sup>9</sup> of committing a crime of deliberately organizing and

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<sup>9</sup> Communication of the Office of the Prosecutor General, 22.04.2018, <http://www.prosecutor.am/am/mn/7072/>

holding assembly with violation of the procedure prescribed by law described in Article 225.1 of the RA Criminal Code. The communication stated that the deputies had organized and conducted the assemblies violating the procedure set by the Law on the Freedom of Assemblies, had not notified the authorized body, had blocked the streets of the city, obstructed the entry and exit of the nearby buildings and so on. The Office of the Prosecutor General had also announced that the Chairperson of the National Assembly was immediately informed about the arrest of the deputies pursuant to Article 96 of the Constitution.

Law enforcement officers presented their actions as performed at the moment of committing a criminal offence, but the representatives of those arrested viewed this as a kidnapping given the rough methods employed in the course of the operation performed and the fact that Nikol Pashinyan's whereabouts were unknown for an extended period of time.

On April 23 the Prosecutor General presented a motion to the parliament to obtain their consent to the criminal prosecution of Nikol Pashinyan and his imprisonment. The first deputy Prime Minister Karen Karapetyan informed the journalists about this adding that he would request the Prosecutor General to retract the motion. Shortly after the Karapetyan-Pashinyan meeting the deputy was released, and several hours after that Prime Minister Serzh Sargsyan who had been in office for 7 days only announced his resignation. In the evening of April 23 the Office of the Prosecutor General announced that “the letter of the prime minister to retract the motion was received and honored”. No discussion over lifting Nikol Pashinyan's immunity took place in the National Assembly.

The process of arrest of the deputies was accompanied by contentious matters in terms of its lawfulness. Specifically:

Article 96 of the Constitution states that a deputy may not be deprived of liberty without the consent of the National Assembly, except for the case of having been caught at the time of committing a criminal offense or immediately thereafter. The Office of the Prosecutor announced that the deputies were arrested “at the time of committing a criminal offense”, this way “solving” the issue of securing the consent of the parliament. Given the reality where there was no opportunity to review the actions of the police officers in this situation from a legal standpoint, it is impossible to understand to what extent they were lawful.

- The Criminal Procedure Code states that the arrested person has the right to immediately learn the reasons for imprisonment, inform the immediate family about his/her whereabouts, as well as invite an attorney. The duty to ensure these lies with the authority

handling the case. In Nikol Pashinyan's case the last 2 rights were not ensured, since for an extended period of time they did not perform the prescribed actions.

- Under the procedure set by the NA Rules of Procedure the Prosecutor General presents the motion to obtain the consent to initiate criminal prosecution of the deputy or imprison him/her to the Chairperson of the National Assembly. The latter immediately informs the deputy about it and if it is not possible issues a statement.

There is no information whether NA Chairperson Ara Babloyan informed imprisoned Nikol Pashinyan about the motion by the Prosecutor General. It is also unknown when specifically the Prosecutor General presented the motion to the NA Chairperson, on April 22 or April 23. The NA chairperson and the political majority were perhaps inclined to keep the process a secret up to a certain stage, since the public learned about the motion by the prosecutor only after the mentioned statement by the deputy prime minister.

The parliamentary majority demonstrated a total indifference towards Nikol Pashinyan's arrest, and later also towards the due protection of his rights as an arrested person, initiation of criminal prosecution or presence of grounds for imprisonment led by the logic of completing the execution of political decisions.

It is a well-founded assumption that the NA majority was inclined to grant the motions of the RA Prosecutor General without reviewing their substance as well as the credibility and completeness of grounds. The unexpected course of developments got in the way of realization of the plans of the NA majority.

### **The process of lifting Manvel Grigoryan's immunity**

#### **Legal obstacle created by the NA Rules of Procedure**

During the same session the Prosecutor General initiated a 2<sup>nd</sup> motion to the parliament on June 19 requesting to lift the deputy's immunity, in the scope of the criminal case initiated by the National Security Service under Clause 2 of Article 235 of the Criminal Code (illegal acquisition, sales, possession, transfer or bearing of weapons, ammunition, explosives or explosive devices. The motion concerned the NA deputy, president of the "Yerkrapah" Volunteer Union Manvel Grigoryan.

On June 18 the Office of the Prosecutor General published information that NA deputy Manvel Grigoryan, having illegally acquired a large amount of firearms and ammunition,

kept them on the premises belonging to him or being in his virtual possession. On June 16 the deputy was arrested with the observance of the procedure set by Article 96 of the Constitution.

Another 2 criminal cases as per Article 235, Clause 1 and Article 179, Clauses 1, 3 of the Criminal Code, were initiated regarding illegal possession of firearms and ammunition on the premises of the open joint stock company in actuality belonging to Manvel Grigoryan as well as cases of appropriation by “Yerkrapah” Volunteer Union's leadership (including M. Grigoryan) of particularly large amount of groceries and other products provided for the needs of the organization by the Ministry of Defense and by individual citizens and organizations during the four-day April war in 2016.

Under grounds for choosing arrest as the type of pretrial restraint of the deputy it was indicated that based on the materials of the criminal cases in the course of the search Manvel Grigoryan, in order to obstruct the investigation and avoid the anticipated liability, contacted his son present at the place of the search instructing him to relay to another person to arrive at the place of the search and “own up to it all”. 30 minutes later this individual had appeared at the place of the search and stated that the entire ammunition kept belonged to him only. Besides the reasonable doubt regarding perpetration of a crime, another basis indicated for choosing the type of pretrial restraint was the high degree of public danger of the deputy's actions due to the involvement of multiple persons in the ammunition trafficking, the amount of ammunition and other factors.

**Over the extraordinary NA sitting convened on June 19, the discussion regarding satisfying the motions to initiate criminal prosecution of the NA deputy Manvel Grigoryan and choose arrest as a pretrial of restraint lasted hardly 2 hours. The discussion showed that the sitting was held with the predetermined political positions of all NA political forces to give consent to the motions. The parliament approved the motion to initiate the criminal prosecution of Manvel Grigoryan through a secret ballot with 81 in favor, 3 against, and to proceed with his arrest as a pretrial restraint with the ratio of 77 in favor and 3 against.**

The initiative to lift the immunity of the deputy brought forth the issue of legal regulation of procedures in place. This had not been visible or taken into consideration in the course of drafting and adoption of the new constitutional law on the NA Rules of Procedure.

Under the NA Rules of Procedure the motion by the Prosecutor General regarding the consent to initiation of criminal prosecution of a deputy or his/her imprisonment is discussed in the “upcoming NA regular sittings”.

No NA regular sittings were scheduled around the time when Manvel Grigoryan was arrested and several days following that. However under the Constitution the person can have the status of an arrested person for a maximum of 72 hours and within this time the matter of bringing charges against him/her and choosing the type of pretrial restraint or releasing shall be resolved. The literal interpretation of this legal regulation implies that if this course does not concur with the NA regular sittings then the law enforcement system cannot realize the constitutional function of initiating the criminal prosecution of a person, in this case, a deputy.

In order to overcome this legislative obstacle the Prosecutor General applied to Prime Minister Nikol Pashinyan on June 18 for the government to exercise its constitutional authority and initiate a NA extraordinary sitting in order to present the motions for discussion in the parliament. Even though the issue was resolved in this way, it became clear that such a restriction of the NA Rules of Procedure presents risks of legal security and constitutionality for the state and requires legislative amendments to eliminate this legal contradiction.

During the session no such initiative by the government or NA deputies was seen.