



Բաց Հասարակության Հիմնադրամներ - Հայաստան

*Open Society Foundations-Armenia*

## Monitoring of the National Assembly

5<sup>th</sup> Convocation, 4<sup>th</sup> session, 3<sup>th</sup> report

(09.09.2013 - 05.12.2013)

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## INTRODUCTION

Mandate NGO presents the findings of the monitoring performed over the work of the NA of the 5<sup>th</sup> convocation in the 4<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's performance during the 4<sup>th</sup> session and presents information on legislative initiatives by NA factions and their level of engagement.

*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 fall session. For each legislative package the course of parliamentary discussions was presented, the positions expressed by the factions were compared to their programmatic points, and the expert opinions were offered.

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 efficiency 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***

Anna Makaryan

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Mesrop Harutyunyan

## 5<sup>th</sup> CONVOCAATION OF THE NA, 4<sup>th</sup> SESSION

### Indicators or session in figures

The RA National Assembly of the 5<sup>th</sup> convocation held 5 four-day sittings during the 4<sup>th</sup> session. 2 extraordinary sessions were convened at the government's initiative on December 10, 2013 and December 20, 2013 and one extraordinary sitting on November 15 initiated by NA deputies which was not held due to the lack of quorum.

108 laws were adopted. 5 are mother laws, the rest are amendments and additions to the operating laws. The Government was the author of 94 laws adopted (half of them recognized as urgent by the executive), and 14 were authored by NA deputies. Around half of them (62 laws) were adopted through a special procedure within 2 extraordinary sessions. The 2<sup>nd</sup> and 3<sup>rd</sup> readings of the drafts were arranged in a 24-hour setting. Two of the laws were adopted with objections and recommendations by the RA President.

Over half of the adopted laws, 55 concerned the social sector, 24 the state and legal matters, 18 the economic sector. Also, 2 laws in each of the following sectors: defense, agriculture, education and healthcare were adopted.

Over the session the parliament discussed 2 legislative initiatives authored by the oppositional factions and eventually turned down in a vote, as well as interpellations by Rule of Law and ANC factions.

The National Assembly ratified 18 international agreements over the session, including the gas agreements which highly resonated with the public, discussed the RA CEC communication on "Organization and conduct of RA Presidential elections of February 18, 2013, violation of Electoral code and proposed legislative amendments", RA Control Chamber Annual work plan for 2014, heard for its information the 2012 Annual reports by the National Commission on Television and by the Public Television and Radio Company Board. Appointed the RA Prosecutor General and CoC Head.

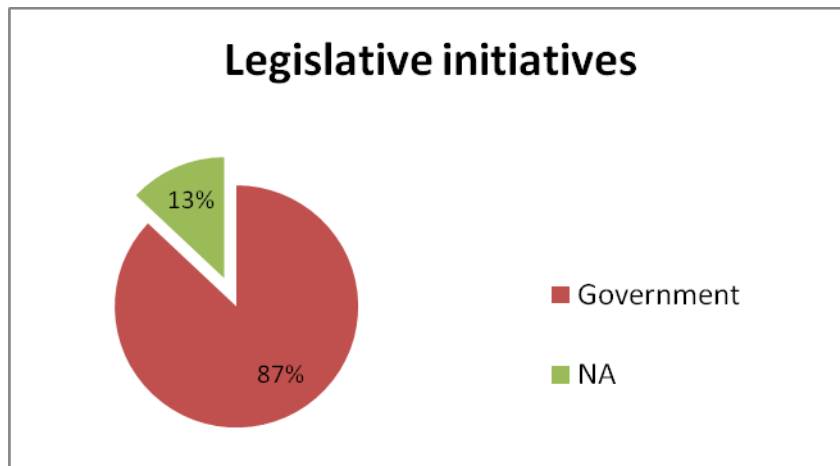
The NA passed the proposal by the RA President on announcing amnesty ahead of the 22<sup>th</sup> anniversary of declaration of RA independence.

### **Underlinings and other noteworthy facts**

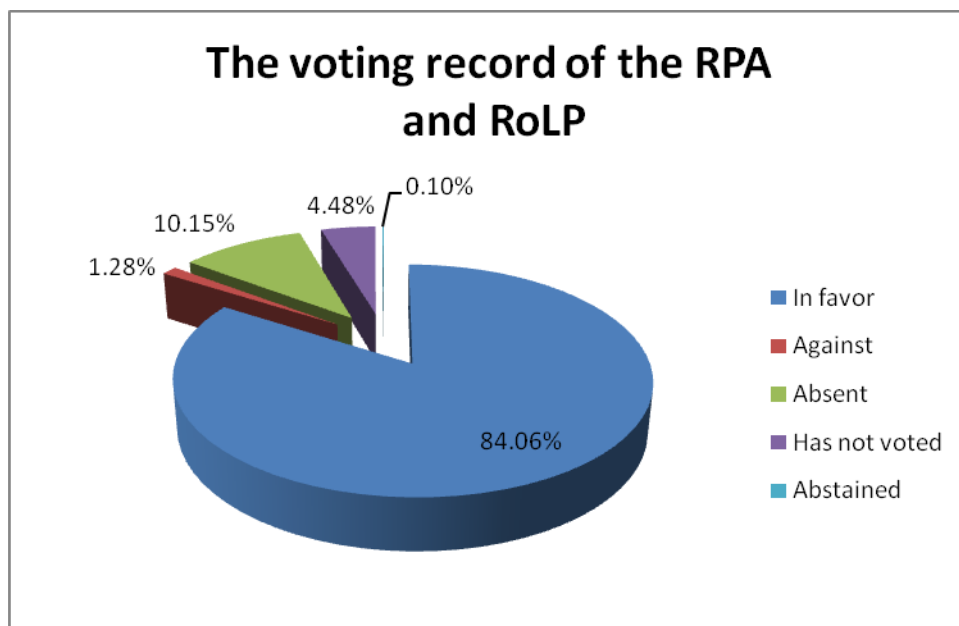
- During the extraordinary session initiated by the Government the parliament adopted more laws than throughout the entire fall session.
- Over half of the laws were recognized urgent and adopted through a special procedure.
- Relative majority of the laws passed concerned the social sector but their impact on poverty rate and general social state was assessed as insubstantial.
- The new administrative code was adopted.
- A common salary scheme was introduced.
- The majority representative voiced the need to make amendments to the NA Rules of Procedure in order to regulate the Government-Parliament relationship in the law-making domain.
- The Ethics Committee did not present any conclusions to the NA.
- The procedure for setup of parliamentary delegations was changed.
- The Heritage faction representative lost its member status in Armenian delegation in PACE (immediately after addressing an inappropriate question to the RA President in Strasbourg).
- The contentious intergovernmental agreement was ratified in a vote by open ballot without the decision of the Counting Committee.
- The parliamentary minority initiated an extraordinary sitting, which did not take place due to the boycott by the majority. Such precedent had occurred also in 2012.
- 4 oppositional factions employing the right conferred by the NA Rules of Procedure, were for the first time able to jointly impose a discussion of an issue on the majority (to postpone the application of the funded pension system's statutory component for a year).
- For the first time the journalists organized a protest in the plenary of the NA (during the discussions on ratification of gas agreements).

## Tendencies or behind the figures

- During the session the deputies were more proactive in terms of legislative initiatives, whereas in terms of adopted laws the NA-Government ratio continued to follow the logic of the previous sessions, with the government's initiatives making up 87 %, and NA deputies 13 %.

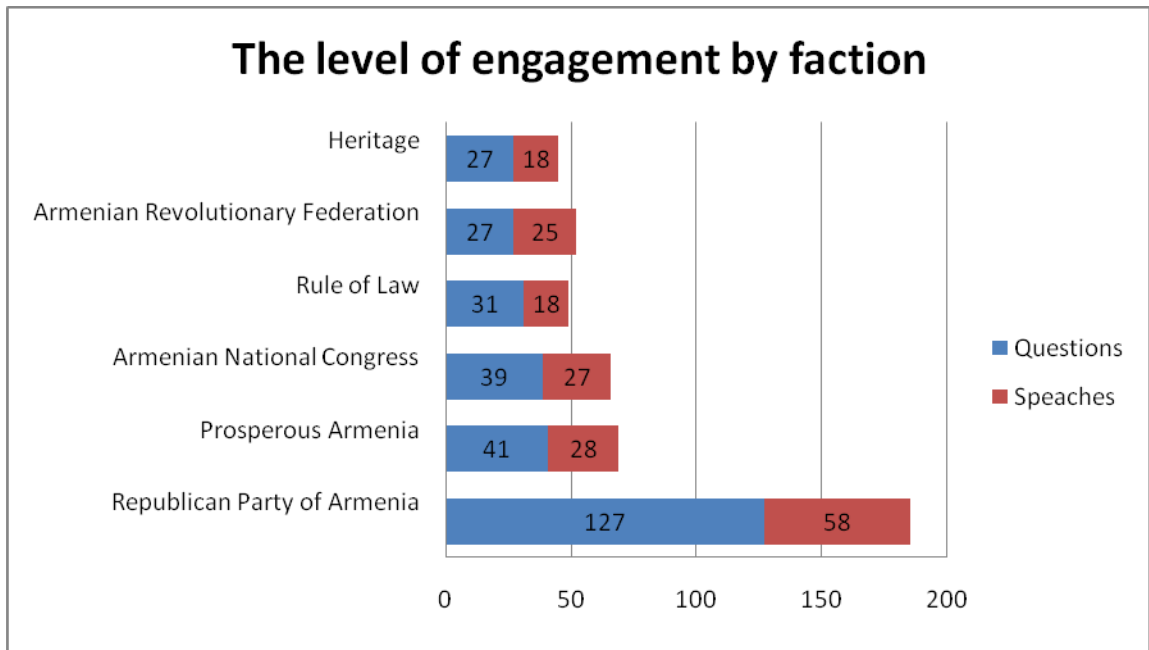


- During the 3<sup>rd</sup> session of the NA of the 5<sup>th</sup> convocation the parliamentary majority, the RPA-RoLP coalition, has adhered to the voting logic. Just like during previous session, votes against did not even make up 1 %, and concerned solely the initiatives by the opposition. This shows that the parliamentary political majority and the government have maintained agreement and harmony in positions.



- According to the statistics of questions and speeches, in the period under review the RPA faction recorded the highest indicator (185 questions and speeches), while RoLP had the lowest figure (40 questions and speeches). But if we adjust this numbers based on the size of the factions, it will turn out that the each deputy from large RPA and PAP factions asked questions

or speeches on average 2,5 times, and deputies representing small faction deputies around 10 times. From this standpoint the idlest in the parliament during the fall session was again PAP, with ARF being the most active.



- Over the observed session, like in the previous one, the parliament did not exercise its right to set up ad-hoc committees inquiring into specific issues, though the ARF faction had come up with an initiative to set up an ad-hoc committee inquiring into the issues of “Nairit” cjsc.

**The 4<sup>th</sup> session of the National Assembly of the 5<sup>th</sup> convocation is characterized by further polarization.**

**Expert:**

The period under review was marked with deeper divide between the ruling and non-ruling factions already noted during the previous sessions. This affects negatively the efficiency of the parliamentary work especially in two aspects.

First of all, there are less possibilities for political dialogue and compromise leading to decreased motivation and intolerance by political wings for constructive cooperation.

Second, when it comes to initiatives, discussions and votes the element of mutual rejection due to political confrontation which at times goes beyond rational becomes predominant and critical.

Consequently in many cases the factions discuss the draft laws and decisions not based on substance, but according to mutual attitudes and political positioning. This prevents mutual understanding and this way constructive recommendations intended to improve the drafts are ignored in the environment of political passions and intolerance.



Political polarization is manifested in two main directions. The first is the majority's and NA leadership's rejecting attitude towards legislative initiatives by non-coalition factions and deputies (during the session the parliament adopted only one draft law authored by the oppositional factions and deputies). With certain drafts such approach by the parliamentary majority is understandable and perhaps even justified since the aims they pursue not only deviate from the program of the majority and the government formed by it, but also contradict them. However, in many cases the coalition majority does not even express a desire to discuss the initiatives of the other wing.

Rejecting attitude by the majority is also evident upon the comparative review of legislative initiatives that did not make the agenda. Overall, in the last three sessions of the National Assembly of this convocation 141 legislative initiatives were not included on the NA agenda. 40 of these, making 30 %, were authored by non-ruling factions and deputies representing them. On the other hand, out of 192 draft laws included on the agenda only 6 are authored by non-coalition deputies. However, it shall be noted that the vast majority of the drafts by non-ruling forces not included on the agenda were submitted during the previous session, so the spring session will show the true attitude of the government and NA majority towards them. At any rate, this attitude of the political majority in some cases drives the non-ruling factions to populism in their attempt to earn dividends of public trust. They believe that it is not their maximalistic goals that will be cited the main reason for not adopting submitted draft laws, but the policy of the political majority of rejecting at all costs the initiatives by the minority.

The second direction of political polarization within the parliament is the practice of blocking political initiatives by non-ruling forces altogether. In this session it manifested itself especially in the context of public and political protest against the statutory component of the funded pension system. First, in November the NA majority boycotted the initiative of the 4 non-ruling forces to convene an extraordinary NA sitting in order to postpone the application of the funded pension system's statutory component for a year through a legislative amendment. Then, about a month later it also voted against the draft of legislative amendments submitted for the same purpose by the same forces through mandatory discussion regime. The political majority argued that by wanting to discuss this issue in NA again the non-ruling forces seek to start political speculations, given that the decision on introduction of this component was not made then, but was adopted much earlier and moreover, with the participation of two forces now making up the parliamentary minority. In this particular case the issue had gone beyond the confrontation between the parliamentary majority-minority and broadened its scope, since the minority had assumed the role and responsibility of voicing the dissatisfaction of the considerable part of the civil society in the parliament. Denying the non-coalition forces the organization of an extraordinary session, the political majority not so much restricted the possibility for their self-expression, but rather impressed as ignoring the public opinion and civil demand and showing unwillingness for dialogue thus distancing the NA from the society.

These tendencies are dangerous particularly because if they deepen, the parliament, under the pressure of growing populism, political resistance, mutual accusations and unnecessary speculations may find itself losing its true functions-representative, legislative and oversight and turning into a simplistic political platform for power play.

### NA factions. Proactiveness, level of engagement

- During the session an extraordinary example of political consolidation was the law regarding the copyright adopted on the initiative of 5 political forces. And a perfect example of political consolidation of non-coalition forces was the initiative regarding the statutory component of the funded pension which was declined in a vote.
- During the 4<sup>th</sup> session the National Assembly of the 5<sup>th</sup> convocation adopted only 2 draft laws authored by non-ruling forces. Both were submitted by PAP deputies. The NA non-ruling forces authored 49 legislative initiatives during the session. Out of these only 2 were discussed in the plenary (and declined). 9 drafts were not included in the session agenda as a result of the vote. 34 legislative initiatives were put into circulation, but did not make the agenda, 6 drafts are on the agenda.
- According to *parliamentmonitoring.am* statistics the deputy of the National Assembly of the 5<sup>th</sup> convocation with the most absences is Gagik Tsarukyan, head of PAP faction. RPA faction leader Galoust Sahakyan voted in favor the most. The law-maker who has voted against the most is Nikol Pashinyan. The most active is Artsvik Minasyan from ARF.
- According to *parliamentmonitoring.am* statistics during the 4<sup>th</sup> session of the National Assembly of the 5<sup>th</sup> convocation almost half of 131 deputies, 65 of them, did not ask any questions or make speeches during the discussions on legislative initiatives. In RPA and PAP factions the share of “silent” deputies is over half. In RPA 36 out of 70, in PAP 23 out of 36.

### RPA. Legislative initiatives.

During the 4<sup>th</sup> session of the National Assembly of the 5<sup>th</sup> convocation the RPA authored 56 legislative initiatives. Out of these 11 were adopted in full. Four of the adopted laws were authored by the RPA together with other forces. 27 legislative initiatives authored by faction deputies are on the session agenda. Another 18 initiatives are put in circulation and are not on the agenda yet. 5 of them the faction authored in 2012.

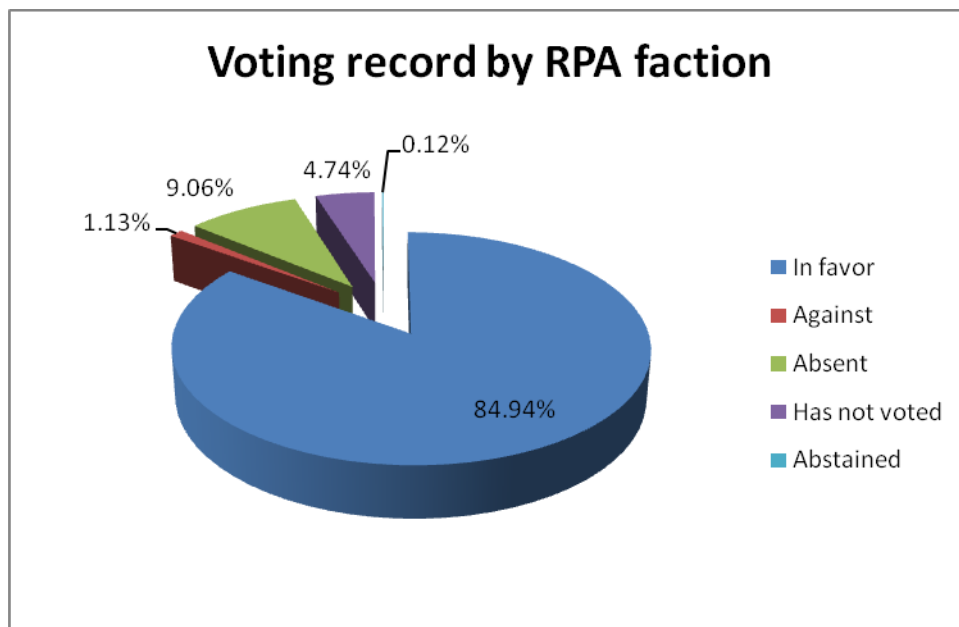
**According to *parliamentmonitoring.am* website statistics, during the 4<sup>th</sup> session**

Ruzanna Muradyan was the RPA deputy asking the most questions-17 in total. Khosrov Harutyunyan made the most speeches, 10 of them.

The number of faction deputies who voted in favor the most exceeds twenty, whereas only 2 RPA members voted against the most (twice). The deputy who has voted the least is Artur Gevorgyan, 28 times. The top absentee is Manvel Grigoryan, 58 times.

In the 5<sup>th</sup> convocation the list of top ten deputies who voted in favor the most was made up exclusively of RPA members, headed by Galoust Sahakyan. The lists of top ten deputies who were absent, voted against and abstained the most does not contain any RPA members. In the top ten list of most active deputies the RPA has 2 members.

The list of top ten most visited pages of the *Deputies* section of the [parliamentmonitoring.am](http://parliamentmonitoring.am) website has 3 RPA members.



### **PAP. Legislative initiatives.**

During the 4<sup>th</sup> session the National Assembly of the 5<sup>th</sup> convocation adopted 3 legislative initiatives authored by PAP (one coauthored with RPA). 2 drafts were moved to the next session's agenda.

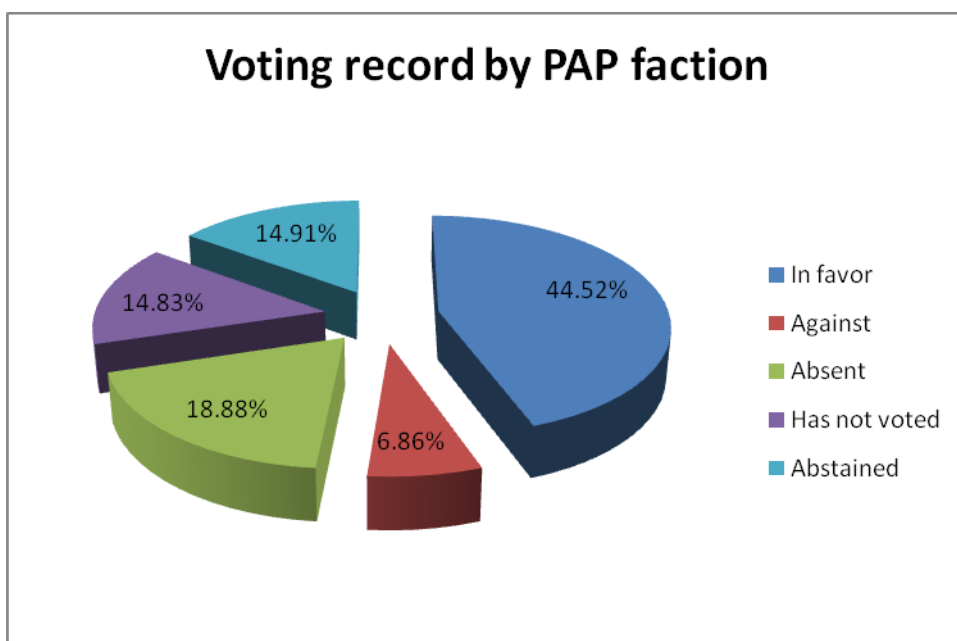
The inclusion in the session agenda of 4 legislative initiatives which had not received the favourable conclusion of the lead committee was declined in a vote by deputies and the inclusion of another 15 circulating draft laws on the session agenda was postponed for up to 1 year. 3 of them the faction deputies had authored in 2012.

**According to *parliamentmonitoring.am* website statistics, during the 4<sup>th</sup> session**

Mikayel Melkumyan from PAP faction deputies made speeches and asked questions the most, 17 instances. Ara Aramyan voted in favor the most, 58 times, the deputy who abstained the most was Vartan Oskanian, 21 times, and Gurgen Arsenyan voted against the most, 13 times.

**In the 5<sup>th</sup> convocation** the list of top ten deputies with the most absences is headed by PAP faction leader Gagik Tsarukyan, 84 times. Another 4 deputies from PAP are in this list of top ten. In the list of top ten deputies who abstained the most the PAP has 5 members. In the lists of top ten deputies who voted in favor or against the most the PAP is not represented. The list of top ten most active deputies has 2 PAP members.

The list of top ten most visited pages of the *Deputies* section of the [parliamentmonitoring.am](http://parliamentmonitoring.am) website has 3 PAP members.



### ANC. Legislative initiatives.

During the 4<sup>th</sup> session of the National Assembly of the 5<sup>th</sup> convocation, only one initiative authored by the ANC faction was discussed through an extraordinary procedure and declined. It was an interpellation concerning the fight against corruption.

4 legislative initiatives that had not received the favorable conclusion by the lead committee failed to make the agenda in a vote by deputies.

Only one out of all the laws adopted during the session bears an ANC deputy name. The ANC joined the draft law on Copyright as a co-author along with the RPA, ARF and Heritage.

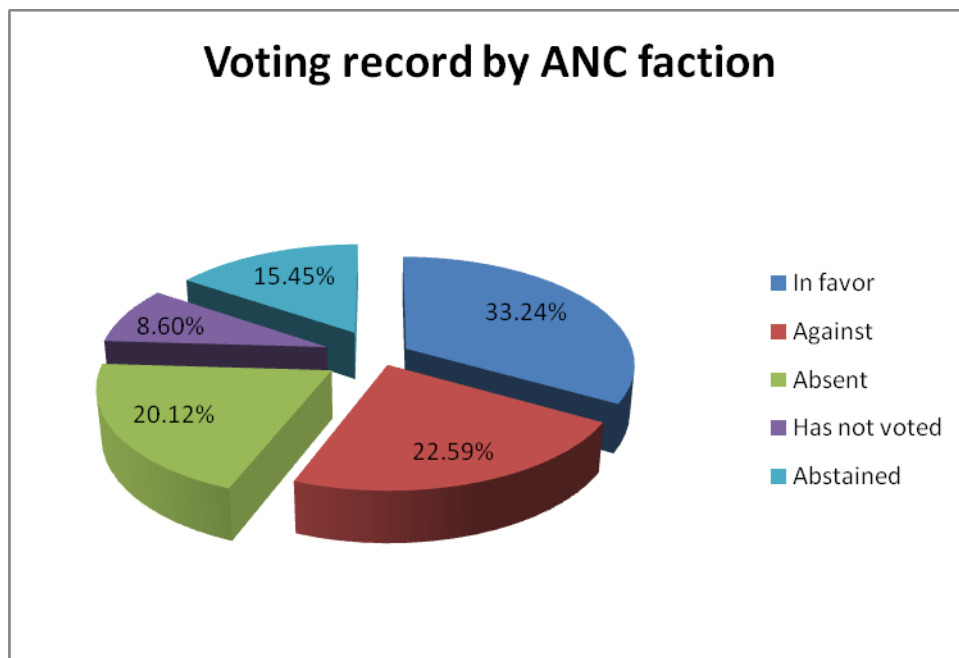
The ANC has 8 initiatives that are already in circulation but not on the session agenda yet. 4 of these are authored by Hrant Bagratyan, 1 by the whole faction, 3 by the faction without Hrant Bagratyan. The ANC has no drafts included on the agenda.

**According to parliamentmonitoring.am website statistics, during the 4<sup>th</sup> session**

The ANC faction deputy who asked the most questions (13), voted against the most (33 instances) and did not vote the most (9 instances) is Nikol Pashinyan. Gagik Jhangiryan voted in favor the most, 52 times and Aram Manukyan abstained the most, 13 times. The deputy who was absent (45) and made speeches the most (6) is Hrant Bagratyan.

The ANC has no members in the lists of top ten deputies abstaining or voting in favor the most during the 5<sup>th</sup> convocation. The list of top ten absentees includes Hrant Bagratyan from ANC, the list of top ten deputies voting against has 5 faction members and the list of most active deputies has 2 ANC members.

The list of top ten most visited pages of the *Deputies* section of the **parliamentmonitoring.am** website includes only Hrant Bagratyan.



**Heritage. Legislative initiatives.**

During the 4<sup>th</sup> session of the National Assembly of the 5<sup>th</sup> convocation no legislative initiative by the Heritage faction was adopted. Only one out of all the adopted laws bears the name of the Heritage deputy. The Heritage joined the draft law on Copyright as a co-author together with RPA, ANC and ARF.

During the session the parliament discussed the draft law on Recognition of Nagorno-Karabakh Republic declared extraordinary by the faction. It was declined in a vote.

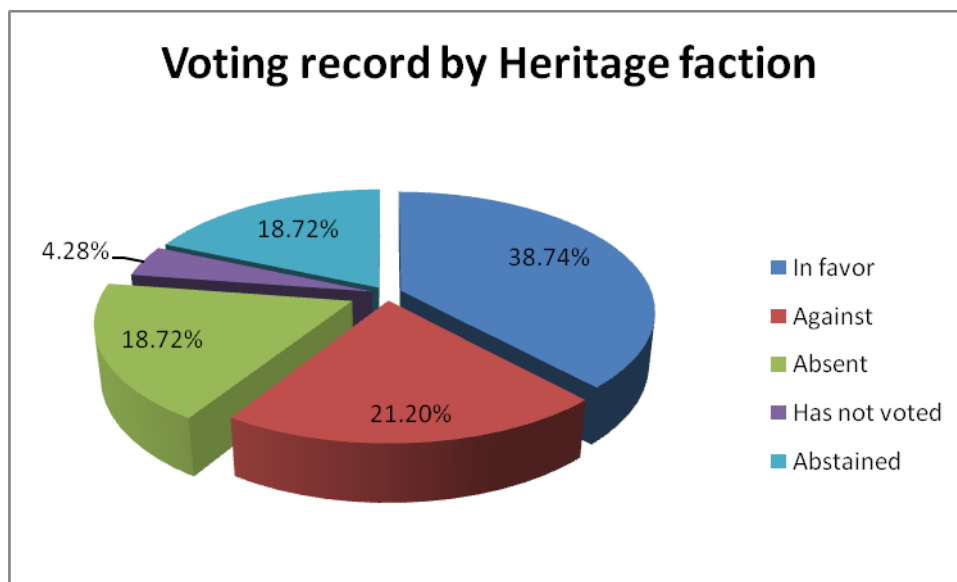
The Heritage has only 1 draft proposing amendments to the NA Rules of Procedure that was included on the session agenda and that of the four-day sittings. There are 6 initiatives put into circulation since 2012 but not included on the session agenda.

**According to [parliamentmonitoring.am](http://parliamentmonitoring.am) website statistics, during the 4<sup>th</sup> session**

From the Heritage faction the most questions were asked by Tevan Poghosyan (13), most speeches were made by Ruben Hakobyan and Zaruhi Postanjyan (4), Aleksandr Arzumanyan was the deputy who voted in favor and against the most, 42 and 29 times. Ruben Hakobyan was the deputy that did not vote and abstained the most, 4 and 15 times. The top absentee from the Heritage was Tevan Poghosyan, 38 instances.

The lists of top ten deputies, who were absent, voted in favor the most and were the most active during the 5<sup>th</sup> convocation do not have any Heritage members. The list of top ten deputies who abstained the most contains 1 Heritage member and the list of top ten deputies with the most votes against has 3 members.

The list of top ten most visited pages of the *Deputies* section of the [parliamentmonitoring.am](http://parliamentmonitoring.am) website has only Aleksandr Arzumanyan.



**ARF. Legislative initiatives.**

During the 4<sup>th</sup> session of the National Assembly of the 5<sup>th</sup> convocation only one of the adopted laws bore the name of a deputy from ARF. The ARF joined the draft law on Copyright as a co-author together with RPA, ANC and Heritage.

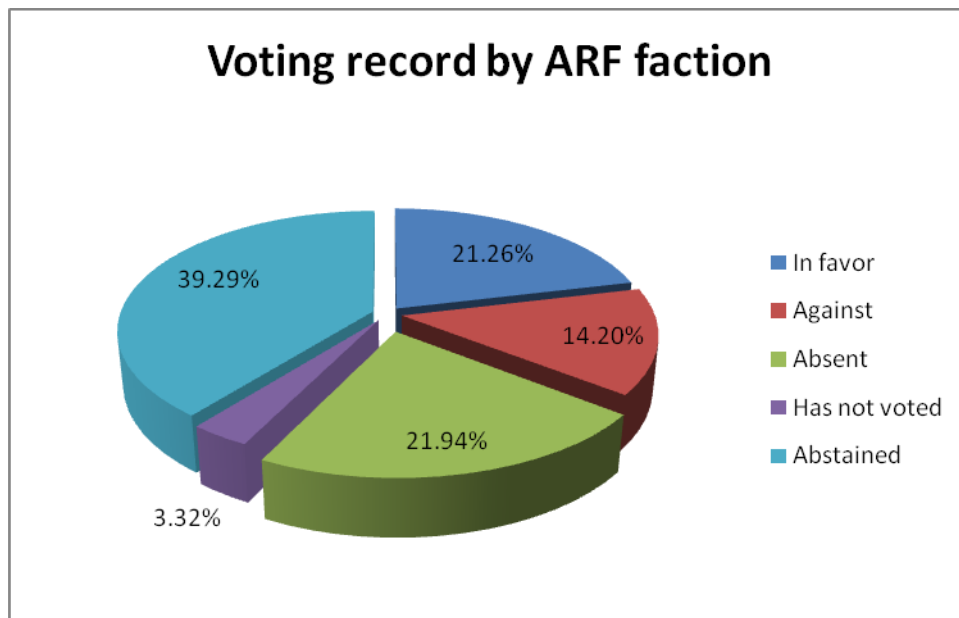
The ARF has 3 draft laws on the session agenda. 5 legislative initiatives by ARF put into circulation are still not included on the session agenda. Only one of them was authored by the faction in 2013.

**According to *parliamentmonitoring.am* website statistics, during the 4<sup>th</sup> session**

The ARF faction deputy who asked questions, made speeches, voted in favor, against and abstained the most is Artsvik Minasyan with 18 questions, 18 speeches, 34 votes in favor, 22 against and abstaining 29 times. Vahan Hovhannisyan was the top absentee.

The list of top ten deputies in the parliament of the 5<sup>th</sup> convocation with the most votes in favor does not contain any ARF deputies. ARF members hold the first 4 positions of the list of top ten deputies who abstained the most. Out of 10 deputies who were absent the most only 1 is an ARF member. The lists of top ten deputies who were absent, voted against the most or were the most active contain 1 faction member.

The list of top ten most visited pages of the *Deputies* section of the **parliamentmonitoring.am** website is headed by Artsvik Minasyan.



**RoLP. Legislative initiatives.**

Only 2 laws adopted by the National Assembly of the 5<sup>th</sup> convocation during the 4<sup>th</sup> session bear a RoLP deputy name. One of them was coauthored with the RPA, the other one with the RPA, PAP and Heritage. 1 legislative initiative that had not received a favorable conclusion by the lead committee failed to make the agenda in a vote by deputies.

The RoLP has only 2 legislative initiatives on the session agenda. Another two drafts on the session agenda were co-authored by the faction together with the RPA and PAP. 23 legislative

initiatives authored by the faction are in circulation. Their inclusion on the session agenda was postponed for up to a year. Only 5 of these drafts were authored by the faction in 2013 with 18 authored in 2012.

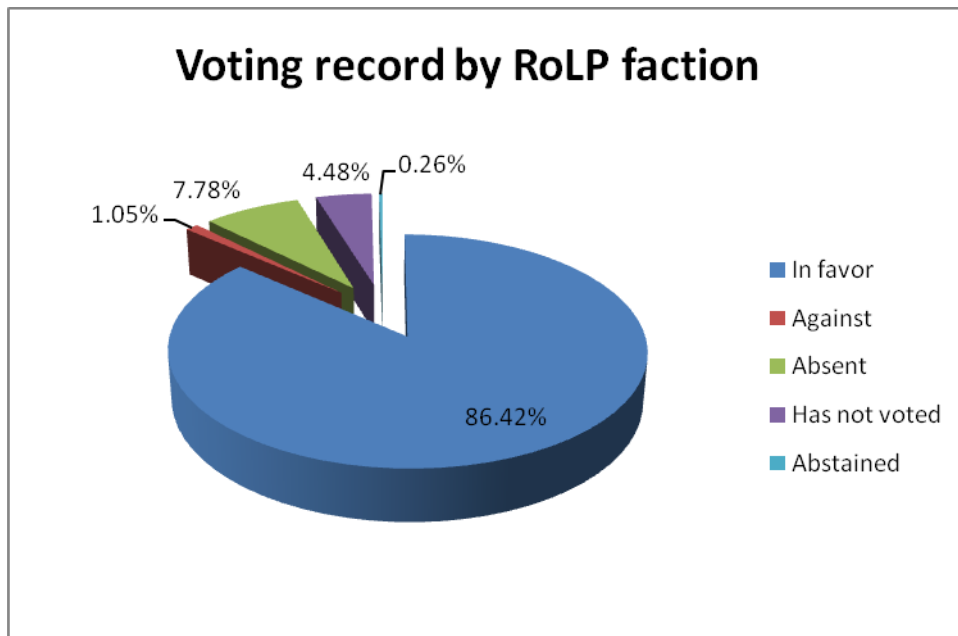
Over the session the RoLP faction submitted one interpellation on offering benefits to Artsakh war freedom-fighters and Afghan war veterans in the process of compensation of USSR deposits. However, it did not submit a draft interpellation.

**According to parliamentmonitoring.am website statistics, during the 4<sup>th</sup> session**

The RoLP faction deputy with most questions and speeches is Hovhannes Margaryan: questions-14, speeches-8. Ishkhan Khachatryan was absent the most, 12 instances. Heghine Bisharyan voted in favor the most, 81 times.

**In the 5<sup>th</sup> convocation** the lists of top ten deputies who were absent, voted in favor, against or abstained the most do not have any RoLP members. The list of top ten most active deputies has 2 RoLP members.

The list of top ten most visited pages of the *Deputies* section of the **parliamentmonitoring.am** website does not have any RoLP faction members.



During the 4<sup>th</sup> session of the 5<sup>th</sup> convocation 4 NA factions, RPA, RoLP, ARF, Heritage made changes in their lists. Following deputy Vahe Hakobyan's appointment as marzpet of Syunik, the **RPA** faction was replenished by Armen Karapetyan. **RoLP** member Khachik Harutyunyan put down his mandate following his appointment as the Provost of Collective Security Treaty Organization Academy. He was replaced by Levon Dokholyan. The **ARF** faction member Vahan Hovhannisyan was appointed the RA Ambassador to Germany and former deputy Mikayel



Manukyan from ARF party list received the vacant mandate. First, **Heritage** faction changed its leader. Ruben Hakobyan was replaced by Zaruhi Postanjyan, and at the end of the year Tevan Poghosyan announced his intention to put down the mandate. The issue of Tevan Poghosyan's resignation and his replacement will be dealt with in the NA spring session.

## NA OVERSIGHT

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The oversight authority vested in the parliament by the Constitution to ensure the checks and balances of the branches of government is the most critical if not the single factor and lever. Apart from the mission to provide an appropriate legal environment for the work of the executive and the judiciary, the legislature possesses a number of platforms and tools to perform its oversight function. It approves programs and reports, ratifies international conventions, intergovernmental treaties and agreements and appoints high-ranking officials. This means that by Constitution the parliament has the authority to have and express a position regarding all matters of state significance. The established traditions of using this authority is a different question.

The agenda of the 4<sup>th</sup> session of the 5<sup>th</sup> convocation was not as rich as the spring session agenda in terms of programs and reports presented to the parliament. At the same time during this period the nature of relationship between the parliament and the government became more pronounced. The executive not only retained its dominant position in the law-making field, but also reinforced the view that the draft laws should be adopted in the parliament as submitted in terms of content and form. (In this sense, the most telling example was the draft law on salaries of state officers). During the session the discussions on issues pertaining to the oversight function of the parliament adhered to the same logic. The law on the budget was adopted almost without changes, the outrageous gas agreements were ratified without qualifications, and the candidates nominated by the RA President were appointed Head of Control Chamber and Prosecutor General unanimously.

Playing up the significance of the slogan “We are the same political team” the parliamentary majority has vested the executive with the authority to make decisions single-handedly and has in practice assumed the role of merely ratifying all the initiatives and steps of the Government.

**Note:** The National Assembly ratified 18 international agreements over the session, including the gas agreements which highly resonated with the public, discussed the RA CEC communication on “Organization and conduct of RA Presidential elections of February 18, 2013, violation of Electoral code and proposed legislative amendments”, RA Control Chamber Annual work plan for 2014, heard for its information the 2012 Annual reports by the National Commission on Television and by the Public Television and Radio Company Board. Appointed RA Prosecutor General and CoC Head.

The Prosecutor General shall be appointed by the National Assembly upon the recommendation of the President of the Republic for a term of six years. The same person may not be appointed as Prosecutor General for more than two consecutive terms.

The National Assembly may remove the Prosecutor General from office by a majority of votes of the total number of deputies, upon the recommendation of the President of the Republic in cases prescribed by law.

RA Constitution, Article 103.

### **The appointment of Prosecutor General. Lessons in inconsistency**

The authority to appoint the RA Prosecutor General as per the RA Constitution rests with the National Assembly which however is “restricted” by legislation to appoint the candidate suggested by the RA president. The parliament has also the authority to pass a motion of no-confidence against the Prosecutor General and remove from office in cases prescribed by law, but again only upon the suggestion of the RA President. The Prosecutor General has the duty to present a report to the Parliament once a year but the latter can take this communication “for information only”. These constitutional clauses hold the NA responsible for the performance of the Prosecutor General but restrict its levers of independent oversight towards him/her and the entire field.

Neither the law on Prosecution, nor the NA Rules of Procedure clearly state whether the prosecutor has to present to the parliament his/her annual communication in written or verbal form. As a result, the tradition of submitting written communications was established over the years, freeing the Prosecutor General from the duty to publicly respond to questions regarding the existing state of affairs in the field from the NA floor. In this regard the publicity principle of the Prosecutor’s work is applied partially and formally. However, the parliament while pointing out the issue, never attempted to resolve it through initiating legislative amendments.

This demonstrated the lack of motivation and interest in exercising the oversight function towards the field.

In September, as stated by law, the RA President nominated military prosecutor Gevorg Kostanyan as the Prosecutor General to be appointed by the National Assembly. In the parliamentary discussions the topics of the communication presented by the Prosecutor and greater accountability to the NA were central. However, after the discussions and throughout the session none of the NA factions proposed respective amendments to the NA Rules of Procedure.

On October 1, in a vote by secret ballot the NA elected the RA Prosecutor General's former deputy, former military prosecutor Gevorg Kostanyan as the Prosecutor General. 103 deputies supported his nomination, 3 voted against. Two ballots were found invalid. The intrigue behind the vote was the discrepancy in the number of those who voted against and those claiming to have done so.

The role of the NA political majority in the election of the prosecutor was limited to the simplistic execution of the political decision and the will of the President as the leader of the political team. Only 7 deputies exercised their right to ask the candidate questions, at that only one of them represented the political majority. During the speeches the coalition deputies chose to look at this candidacy on a personal level basically ignoring the systemic issues and in essence avoiding the substance-based debate.

The reality that the appointment of the candidate was inevitable and the voting results were predetermined was reflected also in the participation and voting of the political minority. The NA minority treated Gevorg Kostanyan and asked him questions not as the candidate for Prosecutor General, but as the prosecutor-to-be, resigned to the inevitability of his appointment. This was reflected in the discrepancy between the statements by two factions, ANC and Heritage on allegedly voting against and the published results of the vote by secret ballot demonstrating a lack of integrity of certain deputies.

### **The Control Chamber: The secret behind the NA majority's silence.**

During the 4<sup>th</sup> session the parliament referred to the Control Chamber on two occasions. First it appointed the CoC head and then approved the CoC 2014 Annual work plan.

***Note: On November 12 the NA appointed Ishkhan Zakaryan the Head of the RA Control Chamber for the second time with 88 votes in favor and 13 against.***

***On December 3 (the discussion had been held on December 2) the NA approved the CoC 2014 Work Plan with 88 votes in favor, 7 against and 8 abstaining.***

The NA had referred to the appointment of the CoC Head 4 months earlier, in the previous session. This took place following the heated discussions over the 2012 report of the Control Chamber, as well as the consultation meeting convened by the NA President at the end of June that sparked a great deal of public interest. The meeting was to discuss the report and issues around efficient management of budgetary funds, strengthening of control over state programs and reduction in corruption risks. In addition, the CoC had forwarded to the RA Prosecutor General's Office certain facts of violation and misappropriation identified in the course of review back in 2012. Following the parliamentary discussions the NA President as well had forwarded the entire report to the RA Prosecutor General's Office moving the issue from the political into the legal dimension. All of this was expected to be reflected in the parliamentary discussions over the reappointment of Ishkhan Zakaryan, but the NA political majority tried to circumvent the matter. The same happened also during the approval of the CoC 2014 Work Plan.

***Note: In the previous session over the course of discussion of the CoC 2012 report 15 out of 27 questions addressed to Ishkhan Zakaryan and 8 out of 15 speeches made during the exchange of ideas came from the political majority demanding that those "thieves" be prosecuted. Nonetheless, over the discussion on the appointment of CoC Head no question from the majority was raised, with only 3 out of 11 speeches made by the coalition deputies and those were basically to present the position of the factions. During the presentation of the CoC 2014 Work Plan only 3 out of 8 questions were asked by the coalition members, with all 3 speeches made by the opposition.***

The constitutional authority given to the National Assembly to appoint the Head of Control Chamber is one of the most effective oversight mechanisms with regard to the performance of the executive, the state budget, expenditure efficiency and their targeted use. In fact, when the RA President proposes to re-appoint, the NA has the opportunity to exercise its function appraising the candidate's work performance and efficiency. The discussion showed that the

coalition majority's tactics is to re-appoint Ishkhan Zakaryan as smoothly and discreetly as possible in order to not face public resonance for the political decision made beforehand.

The same tactics was employed when approving the CoC 2014 work plan. Basically, in order to avoid public reaction it was presented by CoC board member Lilit Gevorgyan. Ishkhan Zakaryan was at the time on a duty trip to NKR.

The plan consists of 13 areas of control. For the first time the CoC will review the efficiency of not only budget expenditures but also the receipts. Specifically, the Ministry of Economy section contains "ensuring budget receipts". No motivated discussions were held around the plan, but the opposition expressed its position noting that the CoC continued targeting the mid-level links and officials and that 2014 work plan was basically the same as the previous ones and the formulations were general.

### Observations

- The CoC head and the NA Chairman had forwarded materials to the RA Prosecutor General's Office, and actual communication on crimes had been presented. These facts were not addressed in the parliamentary discussions either by the NA majority or the head of CoC. This showed that the initiative by the NA President to move the report to the criminal and legal domain was situational and did not reflect the tendency of increasing the legislature's political weight and institutional role.
- During the consultation meeting convened in June by the RA President, statements made by the CoC Head in the NA drew sharp criticism from the RA President. This was however followed by Ishkhan Zakaryan's re-appointment and the "silence" demonstrated by the NA majority in the CoC work plan discussions and the obvious attitude of the Head of CoC of not providing direct answers to the questions by the oppositional deputies regarding the outrageous facts. In this sense, it is important to understand how the criticism by the RA President affected the NA majority's and CoC Head's conduct. It is directly associated with the application of the constitutional principles of independence and non-reliance of the Parliament and Control Chamber. This substantiated the NA opposition's suspicions that the political decision on re-appointment of Ishkhan Zakaryan was made to restrict him and make the work of CoC more controllable.

### Gas agreements: ratification with legal inconsistencies

The Government presented the "gas" agreements for ratification by the NA through the extraordinary procedure as part of a large legislative package. The fact that the executive had to

initiate a legislative amendment in order to increase the 2013 state budget deficit through the same package after the actual end of budget year, indicates that a political decision was made to unconditionally ratify the “gas” agreements by the end of the year with the support of the NA political majority represented by the RPA-RoLP coalition.

The Constitutional Court by its decision from December 19 found obligations stated in the agreements to be in compliance with the RA Constitution. This fact did not allow the parliament to discuss them in a legal dimension and moved the issue entirely into the dimension of political statements and positions leading to politicized and in this case overpoliticized voting.

***Note: 3 Armenian-Russian intergovernmental agreements included in the NA extraordinary session initiated by the government on December 20, 2013 were signed on December 2 in Yerevan, in the course of the visit of RF President Vladimir Putin to Armenia. These were agreements on Cooperation in the area of delivery of natural gas, oil products and raw natural diamonds to the Republic of Armenia, on Pricing procedure in the course of natural gas delivery to the Republic of Armenia and on Sale of HayRusGazArd cjsc shares and terms of future operation.***

Especially the last agreement sparked a heated discussion in the parliament. It stipulated that the 20 % share of the RA in the charter capital of “HayRusGazArd” cjsc was to be alienated for 63 billion 339 million 900 thousand drams to “Gazprom” ojsc of the Russian Federation.

Calling the gas agreement capitulatory, traitorous, anticonstitutional, a communication on crime, a slap in the face to NA and the Republic of Armenia, a disgraceful, humiliating and vassal transaction, the parliamentary minority was basically expressing its political opinion of not only the Government and the NA majority, but also the Constitutional Court and the state government in general.

Although the political majority, generally speaking, did not agree with the accusations voiced by the parliamentary minority, it was clearly passive in the discussions over this package mostly avoiding substance-based talks and guided by the principle of “what matters is voting and not the discussion”. This meant that the government was not put under the pressure to provide explanations on many fundamental and critical issues, raised not only by the minority deputies but also by certain deputies from the majority. This passive attitude showed that the parliamentary majority was not interested in treating the issue from the position of an independent body with the critical lever of political decision-making.

In their speeches several RPA deputies clearly pointed out the specific clauses and regulatory mechanisms associated with pricing and contained in the agreement that restricted the authority of the Armenian side. The opposition proposed returning the agreements back to the negotiation table and rephrasing the contentious formulations which were at the very least unclear for the Armenian side. However, the fact that the the key speaker, the RA Minister of

Energy Armen Movsisyan failed to answer the questions to the point proved that the objections of the parliament are unacceptable for the Government and the executive insisted on ratifying the agreements in the form they were presented.

Consequently, the coalition deputies, including those who had a qualified approach or objections, unanimously supported them in the vote on ratification. So the parliament did not exercise its authority given by the laws on RA International Agreements and the Rules of Procedure of the National Assembly that could send the agreements back to the negotiation stage in order to fix and edit the contentious concepts and provisions. In this case the parliamentary majority exercised unconcealed caution in Armenian-Russian relations to not create further roadblocks on the path of entering the Customs Union.

By the way, the 4<sup>th</sup> clause of CC decision regarding the agreement also contains elements of political statement. The court has noted that the “Agreement seeks to promote efficient and mutually beneficial partnership in the gas sector in a number of directions, specifically in future development of the gas infrastructure and the energy markets as well as in ensuring the smooth gas supply to fully meet the RA domestic needs”. The CC noted that the clauses of the agreement are in tune with the principles stated in Article 9 of the RA Constitution.

***Note: Article 9 of the RA Constitution. “The foreign policy of the Republic of Armenia shall be implemented in accordance with the principles and norms of international law, with the aim of establishing good neighbourly and mutually beneficial relations with all states”.***

*Note: The obligations of the RA as set out in the “Sales agreement of HayRusGazArd cjsc shares and terms of future operation” (quotes):*

- *guarantees that til December 31, 2043 the rights and interests of Gazprom ojsc, HayRusGAzArd cjsc and appropriate legal successors as of the date of signing this Agreement will not be modified, declared void or otherwise violated by any RA regulatory legal act.*
- *guarantees that it will not use the special management rights of HayRusGazArd cjsc that will modify the scope of rights conferred to the shareholders of the company in line with the operating legislation,*
- *guarantees that the natural gas supplied from the RF territory to RA intended for consumption in the RA domestic market will not be exported outside the borders of the RA,*
- *ensures price-setting by the RA competent authority for the gas sold to RA consumers pursuant to the Procedure set out in the Appendix of this Agreement,*
- *ensures price-setting by the RA competent authority for the electricity sold to RA consumers pursuant to the Procedure set out in the Appendix of this Agreement,,*
- *regularly (but no less than once a year) reviews the price of the gas and electricity sold according to set procedure,*
- *provides favorable conditions for mutual investments in the gas and energy sectors by the parties,*
- *implements an agreed upon, common normative and technical policy regulating the operation of the system of gas mains,*
- *develops and implements joints projects with the Russian Federation in the areas of gas and energy conservation,*
- *guarantees that any property owned by Gazprom ojsc or related parties in the RA enjoys full and unconditional protection by the RA and is not subject to direct or indirect confiscation, nationalization of requisition,*
- *compensates without delay the value of such property, rights or interests in US dollars in case of violation of the above-mentioned terms,*
- *in the event of failure to meet the specific obligation buys back, at the request of Gazprom ojsc as per Article 1 of this Agreement the shares transferred to the company at the price in US dollar equivalent of AMD, as well as compensates all the damages to Gazprom ojsc.*
- *Settles the disputes arising in the course of application of the agreement and performance of associated obligations through negotiations,*
- *bears the costs associated with its representation in the arbitration court also in cases, when it may decide that one of the parties shall bear most of the expenses.*



The vote on the “gas” agreements was conducted on December 23 by hand, since Heritage faction leader Zaruhi Postanjyan had taken the electronic voting cards of some RPA members over the break. The votes in favor from RPA and RoLP were counted by the counting committee chairman Sukias Avetisyan. Initially, it was announced that 77 deputies had voted in favor, which was later corrected and announced as 72. The PAP, ARF, ANC and Heritage did not participate in the vote and left the plenary. Later 4 non-ruling factions came up with a statement calling the voting illegal, and the ratification of agreements invalid, since in case of an open ballot vote the counting committee performing the function of recording the voting results did not have the legal authority of decision-making due to lack of quorum.

Although the NA Chairman Hovik Abrahamyan signed the decisions on ratifying the agreements, there may come a time when the legal grounds for their ratification will be contested for political reasons. Despite this legal mess, the parliament does not seem inclined to look into the actions of Zaruhi Postanjyan or the NA President in the course of conducting the vote either from legal or ethical points of view.

## NA LEGISLATIVE ACTIVITY

*The NA of the 5th convocation adopted 108 laws during the 4th session. 5 are mother laws, the rest are amendments and additions to the operating laws. The Government was the author of 94 laws adopted (half of them recognized as urgent by the executive), and 14 were authored by NA deputies. Around half of them (62 laws) were adopted through a special procedure within 2 extraordinary sessions. The 2nd and 3rd readings of the drafts were arranged in a 24-hour setting. Two of the laws were adopted with objections and recommendations by the RA President.*

*Over the session the parliament discussed 2 legislative initiatives authored by the oppositional factions and eventually turned down in a vote.*

Below we present the findings of the monitoring for a few of the laws adopted over the spring session. Through 3 packages we looked at legislative steps intended to improve the areas of defense and human rights, budgetary system and business environment. We also reviewed the programs of the political forces for the coverage of these issues comparing the approaches and positions expressed through voting.

### Budget 2014

**In the course of the extraordinary session of December 10-12, 2013 the Law on RA State Budget 2014 was adopted with 70 votes in favor, 40 against and 1 abstaining. 4 out of 6 NA factions opposed the budget. The main financial document for the next year received the support of coalition parties only.**

#### Expert opinions from the analytical review

- The budget 2014 bears a certain level of risk due to slower global economic growth and great deal of dependence on the RF.
- In 2014 the acceptable inflation rate will be difficult to maintain without drastic interventions.
- In 2014 budget the expenditure proportion of 2013 budget was not maintained, and in many cases a selective or situational approach was applied.
- 102.4% consumption figure exceeds the GDP figure, which means Armenia consumes more than it produces.

- Continued worsening of the investment climate becomes a matter of concern. Starting from 2009 the share of investments in GDP has been dropping. In 2013 it made up 22.5% versus the projected 26.9%, and in 2014 it will total 21.8%.
- Credit obligations assumed by the RA Government will continue to be a heavy burden (288.2 million US dollars), although the peak was recorded in 2013.
- The shift in the development path from the European Union to Customs Union will have an effect on 2014 budget raising the level of uncertainty and risk

### Key indicators of 2014 Budget

Revenues of the RA state budget 2014 will make up 1 trillion 134 billion drams exceeding the 2013 indicator by 101.5 billion drams. The expenditures will total 1 trillion 245 billion drams equaling 26.36 % of the projected GDP. The budget deficit in 2014 will total 110.5 billion drams or 2.34 % of GDP.

Within the budgetary allocations the social-cultural area again predominate making up 47.1 % of the total expenditures vs 43.7 % in 2013.

The government projects a subdued 5.2 % economic growth in 2014 and a quite high inflation rate of 8% for the first half of the year. The executive calculates, that in the second half of 2014 the inflation will return to its target range of 4 (+/-1.5) %. In 2014 the national debt is planned to increase by around 200 million US dollars bringing it to 4,741.8 million US dollars.

The 2014 socio-economic policy, as stated by the executive, will be aimed at the maintenance of macroeconomic stability ensuring sustained economic growth.

### The features of the Budget

At the start of discussions on the budget the RA Prime Minister presented to the Parliament the key features of the main financial document of 2014. **For the first time** the budget 2014:

- is presented in the program budgeting format,
- does not envisage a heavier tax burden,
- is based on the principle of salary comparability and unification for state structures.
- radically revises the social protection sector rejecting the approach of formal social assistance.
- earmarks around 32 billion drams for the launch of the statutory component of the funded pension system,

- directs around 50 % of the total budget expenditures to the social sector.

*Note: The government received 326 suggestions on the budget 2014 from NA committees, factions and deputies. 31 out of these were accepted partially or fully, 87 were found unacceptable, the rest- subject to discussion in the coming years. The suggestions mainly concerned budgetary allocations for financing certain aims or their increase.*

### The budget and the NA factions

4 out of 6 NA factions did not support the budget. The main financial document of the year was backed only by the coalition parties.

**RPA** supported the draft finding it realistic and balanced, **RoLP** was in favor mainly out of considerations of harmony within the political coalition and available resources. The **PAP** opposed the document believing that it would not secure an improvement in the standards of living and that the government presenting it lacked the resource of trust. The **Heritage** faction also was against both the budget and the government. **The ANC** called the budget a document of “mockery and robbery”, and **the ARF** expressed a belief that such policy pursued by the government would not only fail to overcome the challenges faced by the country but will make them more.

### *Deficit increase in the State Budget 2013*

On December 23, 2013 the parliament made amendment to the law on State Budget 2013 with 72 votes in favor.

*The draft was included on the agenda of the extraordinary sitting of December 20, 2013 initiated by the government. As noted by the key speaker the legislative package directly concerned the gas agreements. Despite the strong public resonance around them the package was adopted without discussion.*

With amendments made to the RA Law on Budget 2013 the state budget deficit increased by 63.3 billion drams. The deficit was financed through domestic sources: the receipts from sale of net financial assets, shares and other participation in capital. These funds were directed to the RA Ministry of Energy and Natural Resources and according to the operational classification of expenditure items handed over to “HayRusGazArd” cjsc as compensation for imported gas. According to the economic classification this was placed as an expenditure in oil products and natural gas class of the fuel and energy group under the economic relations section of the 2013 budget.

Over the past 20 years no such precedent was recorded in the RA budgetary process. The amendment prompted further amendments and additions also to the Law on the Budgetary System of the Republic of Armenia.

The amendments allow the funds received through privatization and alienation of state property to be put towards the repayment of debts.

As a result, a number of economic indicators change. The RA state budget 2013 deficit totals 183.1 billion drams versus 119.8 billion. The share of deficit of 2.64% of the GDP increases making up 4.04% and exceeding the generally accepted 3 % line. The fact that the government has included certain exceptions in the Law on the Budgetary system of the Republic of Armenia leads us to infer that such transactions can potentially occur before the end of 2014. This means, that the deficit of 2014 budget may also rise.

### ***New system of remuneration for state officials***

*On December 12, 2013 the legislative package introducing a new system of remuneration for state officials was adopted. It consisted of the Law on Remuneration of State officials and drafts proposing amendments to related 34 laws. Legislative package was adopted with 73 votes in favor, 37 against and 1 abstaining.*

*The coalition factions and the ARF voted in favor of the package.*

The legislative package introduces a new system of remuneration in the public administration sector. As argued by the executive, it is anchored in 4 main principles: common salary policy, hierarchic classification of positions in 3 branches of the government, determination of a common base pay for high-ranking officials and public servants and ensuring comparability in the salaries for the different sectors of public service.

### **Expert opinions from the analytical review**

The introduction of the new system of remuneration will not solve the issue of attracting qualified, young personnel in the public sector. As far as the retention of human resources is concerned the system will be able to keep those holding senior positions and the chief specialists, with certain ambitions in the short-run and over 3 years of work experience. However, the turnover of quality personnel (holding junior and lead positions) will be relatively high.

The introduction of the new system will further deepen the unequal distribution of income, if the change in income (in %) is not the same for all groups of population.

According to the proposed model the salary of each official will be calculated the following way: the base pay will be multiplied by a coefficient determined for a specific position. The

nominal value of the minimum salary will be taken as base pay. (The Government plans this figure to be 66 thousand AMD in 2014), and the coefficients are provided on a separate scale.

The highest coefficient on the scale is assigned to the country's president-20, followed by the NA President and Prime Minister, with coefficients of 18. The Head of the RA Constitutional Court has the coefficient of 16, the Head of the National Security Council has a coefficient of 15.5 and the deputy Prime Minister-15. On the scale the coefficient for ministers is 12, and that of the NA deputy is 10. The lowest coefficient of 1.25 is assigned to the junior specialist working for the state.

The scaling and comparison of positions is based not so much on the logic of constitutional relationships between the branches of the government but rather on the work performance criteria: workload, quality, level of responsibility, decision-making, creativity, interaction network and so on.

The fact that the raise in civil servants base pay planned for in the RA state budget 2014 coincided with the adoption of the legislative package made it socially significant. The issue was now in the field of comparisons in terms of ratio by which the raise would affect the high-ranking officials and public servants. It got politicized turning into the key source of objections by part of the opposition. The package covers 30 thousand state officers, with 1500 of them being high-ranking officials. The latter will enjoy at least a double raise upon the introduction of the new system, whereas mid and junior level state employees will have to be content with the nominal raise in salaries.

### **The programs of the factions and the new remuneration system of state officials.**

**RPA.** The new methodology for remuneration of state officials proposed by the submitted draft seeks to raise the level of social protection. The RPA election program looks at it as a measure intended to raise the efficiency of public administration. That is why the issue was included not in the social, but the public administration section of the program. Overall, the initiative of the government is consistent with the RPA programmatic approaches.

However, during the discussions over the package the political majority focused mostly on the methodology for assigning salary coefficients and the fact by the draft law the coefficient for members of the cabinet was higher than that of law-makers by 2 points. Despite the criticism voiced in this regard and suggestions to be guided by the constitutional order when assigning coefficients the government remained firm. This had no impact on the voting in any way. RPA supported the legislative package in the form the executive had planned.

**RoLP.** During the discussions the faction mainly stressed the need to come up with a common methodology of salary calculation for public servants. In its program the party looks at the issue of remuneration not so much from the perspective of raising the public administration efficiency and motivation of state employees but rather as a matter of social justice. The RoLP sees the solution to this problem in the adoption of the Law on Budget-paid service, defining social and legal protection frameworks for public servants. The faction has not come up with

such a draft law yet. Nonetheless, the party sets forth the need for salary system reform. In this respect the RoLP's political position of supporting the package was determined mostly by the logic of its election program.

**PAP.** The program does not separately cover the issue of remuneration in the public administration system. The approach is general and contains statements on the need for continued increase in salaries and design and introduction of new mechanisms, without elaborating on principles and criteria. This makes it difficult to determine whether the hierarchic scaling approaches for the public administration system proposed by the government are in line with PAP programmatic approaches. The only specific statement concerns ensuring a pay that is commensurate with workload and quality. According to the party the salary increase shall be consistent with the rise in prices.

Overall, the PAP demonstrated a politicized approach in the discussions stressing only the pay raise for public servants and skipping the key aim of the draft law to ensure a common and structured system of compensation.

**ANC.** The solid position reflected in the voting picture of the faction was that the current government could raise the salaries of the succeeding government, but not its own. So the main condition set forth by the ANC with regard to the adoption of this package was for it to take effect following the next statewide elections.

In order to ensure an increase in state salaries the ANC program suggests a sharp, around 1,5 time reduction in the public administration staff which can secure a 2,2-time increase in salaries. The ANC believes this to be one of the key stimula for higher efficiency in public administration system. During the parliamentary discussions on the package the ANC politicized the issue presenting this initiative by the Government solely as a way of significantly increasing the salaries of high-ranking state officials. They set the adoption of the new RA Law on Employment against the decision to forgo unemployment allowances, citing that it would lead to deeper social polarization in the society.

**ARF.** In the ARF election program the introduction of a common system of decent remuneration is declared one of the 6 priority issues, the most critical of the social policy pillars. Though the legislative package submitted by the government is far from providing global strategic solutions, but is in tune with this logic. The ARF suggests setting a common base pay rate for public servants in the 120-fold amount of minimum salary. The package submitted by the government covered only the second part of the scheme. In essence, the ARF treated the legislative initiative as the first step towards introduction of a more comprehensive common system of remuneration and supported it in the vote.

**Heritage.** For Heritage the main problem with the remuneration system in the public sector is the low base pay rate. The programmatic recommendations on setting the base pay at 111,000 drams, and the average salary at 210,000 drams make it clear that the party sees the solution in a simple pay raise, as well as indicate that the Heritage does not attach structural or strategic significance to the issue. The party states without further elaboration that the key in raising the

efficiency of public administration is the “de-partization” of the system and raising the legal-social protection level.

During the voting on the first reading of the legislative packages the Heritage faction deputies voted against and abstained, whereas during the voting on the second reading, the faction in full voted against. Presumably this position of the faction was prompted by the fact that the majority of suggestions by deputies were rejected by the government.

### *The issue of employment*

According to the projections by the International Monetary Fund real GDP growth for 2013-2017 will be lower than the required 6.2%. In the medium term the level of unemployment will continue to stay high. In these circumstances the RA Government needs to implement such a policy in the short run which will increase the demand for employment.

The shift to active employment policy was called for. However, the activation policy in itself cannot secure stable employment if not accompanied by efficient application of other elements of economic policy (investment, industrial, tax, etc.).

#### **Expert opinions from the analytical review**

*(See appendix for expert analytical review in full)*

**On December 5, 2013 the Law on Employment was adopted with 65 votes in favor, 30 against and 2 abstaining.**

The coalition parties supported the draft submitted by the Government, whereas the present deputies from 4 factions voted against.

**The rationale of the draft:** The draft law introduces a new employment policy model described by the Government as “active” and based on the principle of “assist and demand”. It is anchored in three new key approaches:

- Unemployment allowance system is being replaced with active programs of employment. Consequently, starting from 2014 the unemployed registered with the centers of the State Service of Employment will no longer receive unemployment allowances. The public funds intended for this purpose will be directed to professional trainings and capacity building programs. This implies monitoring of supply and demand in the labor market and assessment of needs. The state policy designed by the Government based on this will be presented to the NA for approval along with the state draft budget for the year.
- The objective is to coordinate the work of private organizations providing employment services focusing particularly on the protection of citizens’ rights and interests in work



abroad programs. Coordination of the sector by the state implies registration of private organizations providing such services by an authorized state agency, exchange of information, provision of methodological support.

- It envisages stimulation of employment also for people with disabilities through differentiated assignment of job quotas for them in state and private organizations or in cases when it is not feasible through contributions. Violations will lead to administrative responsibility.

The review of the practices of the previous years points to a highly inefficient system in the area of unemployment allowances. Our research showed that 94 % of funds allocated to the system did not reach the beneficiary, the individual who is seeking employment. Two letters confirming that the person had 1 year of work experience and the fact of being dismissed were sufficient. The social status of the applicant was entirely outside the interest of the operating system. Thousands of people received financial resources, which did not contribute either to the solution of social issues or creation of jobs”. **Tigran Sargsyan, November, 2013**

These statements on the existing state of affairs in the area of employment made by the RA Prime Minister became the key point for the government in building a case for the adoption of this draft law in the parliament. The parliamentary minority views these statements as “communication on crime”.

### *The issue of employment in the programs*

The issue of employment is directly or indirectly reflected in the election programs of most of the parliamentary forces. In the ARF, RoLP, PAP programs it is stated as the key challenge for demographic security and the main factor impacting emigration. However, the programs give a very general idea about mechanisms for ensuring employment or on key directions of reform in this field.

**RoLP:** In terms of the set objectives the party program is in tune with the government policy, but the mechanisms and methodology are different. The RoLP’s approach is based on the implementation of job creation policy according to communities and industries and the promotion of differentiated programs. It also stresses the need to implement effective re-training and specialized training programs aimed at capacity building for the unemployed that are not competitive in the labour market. The program also recognizes the need for supervision and coordination of work of private organizations providing employment services. The RoLP has dedicated a special section also to state assistance for people with disabilities and their social integration. Despite the differences with the government’s approach, some of the mechanisms are compatible. In this sense, the RoLP’s favorable position towards the draft derives from its program.

**Heritage:** The solution to the issue of employment is seen in small and medium business development strategy through the introduction of competition-based economic system and preferential regimes for SMEs. It treats the issue more from economic, than social perspective. Although the party attaches an utmost importance to the issue of employment, the mechanisms and methods are not specified in the program. However, it sees the solution not in application of innovative models or reform of the policy as does the government, but in dynamic raise in unemployment allowances “according to appropriate socio-economic assessment of the needs of these groups”. The faction members voted independently on the draft leading to a quite contradictory voting picture.

**PAP:** The employment issue is based on the provision of state assistance to SMEs. The PAP looks at the issue not from the economic development, but from social security perspective. Ensuring employment is viewed as a key tool for emigration prevention through promoting self-employment and building on professional skills. The Law on Employment is anchored in organization of professional trainings and re-training courses for the unemployed based on the assessment of demand in the labor market. From this standpoint the government policy partly matches the PAP's programmatic position. In order to create jobs the party sets forth mechanisms of easier tax administration towards the SME and provision of state assistance in the range of 0.5-2 % of GDP. The faction predominantly voted against due to material disagreement with the decision of the government to stop the unemployment allowance system and as an appropriate response tactics towards the political majority for rejecting draft laws authored by it.

**RPA:** The issue of employment in the program of the party representing the political majority is not reflected either in the context of economic or social policy. RPA program does not view it as a priority. The general conceptual approach is based on the revision of policy shifting the focus to state financial assistance, creation of educational and work opportunities and identification of needs and capacities. It is not clear whether the not competitive segment of the unemployed is implied under the “capable vulnerable group” concept which is targeted in the RPA program. So, the position of unconditional approval of the government’s initiative is based not so much on concrete approaches stated in the program of the political majority, but more on the logic of broad formulations.

**ANC:** The party does not indicate a specific aim or objective regarding employment in its programs. For the ANC the social security issue derives from economic reforms. The ANC sees the key measure leading to the creation of jobs in implementation of a flexible fiscal policy aimed at stimulation of small and medium entrepreneurship. So, the faction voted against more on political than program-based grounds.

**ARF:** Ensuring employment is considered Armenia’s key priority for 2012-2017. The program talks about creating 200 thousand new jobs, but it does not specify the mechanisms to achieve that figure. The solution of the employment issue is based on implementation of a series of measures aimed at stimulation of small and medium entrepreneurship. It specifically addresses the issue of social welfare for people with fewer opportunities. According to the program it can

be achieved through steps to restore their work capability and involve them in income-generating activity. This is where the party's programmatic approach is in principle different from the method of assigning quotas stated in the draft. The ARF, however, opposed the draft finding the phrase "stable employment" stated in it anticonstitutional and opposing the key clause of the draft on delegating the authority associated with the annual employment programs to the Government. The risk affiliated with this is the artificial lowering of the unemployment rate and misrepresentation of the real state of affairs.

### *Copyright*

On September 30, 2013 the parliament with 110 votes in favor, and no one against or abstaining adopted the draft law proposing additions to the Law on Copyright and Related rights.

4 National Assembly factions authored the draft. It was put in circulation on May 22, 2013. The very next day a statement by the editors of the printed press followed. It called to put an end to illicit practices established in the news field and particularly on the internet. Of particular concern was the fact that the publications in press were used by online news resources without references, not citing the primary source, and the reference was often not visible to the point of misleading the reader.

Based on suggestions submitted by the heads of 13 media resources the draft was revised and the new version was put into circulation on August 29, which passed the first reading in the NA plenary sitting on September 10. Given the significance of the issue and the attention it received from the journalist community the National Assembly made the decision to hold discussions on the draft in the second reading within 24 hours after the first one.

The amendments made to the Law on Copyright and related rights seek to fight the *copy-pasting*, as it is called in journalistic jargon. Many websites that emerged in the recent years operated by this very principle. They were simply copying the information publications from traditional printed media or news websites, without citing the primary source altogether and presenting them as their own (which is simply plagiarism) or without proper referencing. Consequently these tiny websites with one or two computers and one or two employees, were effortlessly taking the audience away from the news media with large staff that spent financial and human resources on publishing each piece of information. The fact that reputable and already established news websites would also copy from each other without citation was even more concerning. The adopted law seeks to rule out this kind of practices and clarify the rules for cases of publication copying.

Despite some unclear points the adopted additions may in a certain timeframe help the fight against existing negative phenomena, but in the long run their effectiveness is dubious, since the increase of online content will make it harder and harder to control the instances of copying and plagiarism. In addition, new global tendencies prefer non-restriction of freedom of dissemination of information over the copyright.

### **Expert opinions from the analytical review**

## Copyright in the programs

The additions proposed to the law on Copyright and Related rights concern the key aspect of the work of the mass media, that is the practical application of the principle of copyright protection. The draft law was worked out and adopted as a result of mutual agreement by the ruling and non-ruling forces of the parliament. The election programs, however, are extremely “sparing” when it comes to freedom of information and mass media. None of the programs of the parliamentary forces cover the issue of copyright, present in many social and business relations and fields and directly associated with key human rights and obligations.

The issue of freedom of speech and mass media in the programs is of derivative nature. With certain factions (ANC, PAP, RPA) it is practically missing. The RoLP included a single 6-word sentence, simply appreciating the importance of establishment of independent and free press. A generic and highly declarative approach is also present in ARF’s and Heritage programs, though these factions viewed the matter more in the context of raising the level of independence, transparency and accountability of the bodies regulating the television and radio field. This fact basically emphasizes the low level of attention and interest towards the field by the political system and the tendency of assigning a limited role to the press in establishment of democratic institutions.

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**Over the session 2 legislative initiatives authored by the parliamentary minority were discussed. Both were rejected in a vote.**

### *Statutory component of the funded pension system*

During the 4<sup>th</sup> session of the National Assembly of the 5<sup>th</sup> convocation 4 oppositional factions- PAP, ANC, Heritage, ARF, twice came up with a joint initiative seeking to discuss the issue of the statutory component of the funded pension system reform. They proposed postponing the application of the statutory component and holding round-table discussions during this time as well as determining the constitutionality of certain clauses of the law and even present the draft law for public survey. Securing the 44 signatures of deputies needed to convene an extraordinary sitting (Constitution, Article 70, NA Rules of Procedure, Article 39) the PAP, ANC, Heritage and ARF factions applied to the NA chairman. The extraordinary sitting was scheduled for November 11, but did not take place due to lack of quorum. Only 45 deputies from non-ruling factions had registered. The NA Chairman Hovik Abrahamyan announced that the RPA faction had decided to not participate in the extraordinary session and boycott it. However, a day earlier the RPA faction leader Galoust Sahakyan had stated that if the opponents of the law collected the necessary 44 signatures, the majority would come to the plenary and attend the sitting. The parliamentary minority viewed the boycott by the coalition as a way to avoid content-driven

discussion and ignore the public discontent. In their turn, the coalition forces found it inadvisable to hold discussions on amendments one month before its application.

In order to hold a discussion over the same issue, the 4 parliamentary forces for the second time came up with a joint initiative on December, 12. Exercising the possibility provided by the NA Rules of Procedure the PAP, ANC, Heritage and ARF factions collected 47 signatures, submitted a NA draft decision, which was included on the agenda since it was treated as extraordinary. The NA draft statement on application of the statutory component of the funded pension system was discussed but was not adopted due to the majority being against. 45 deputies voted in favor, with 53 opposing it.

Following the failure of the initiative, the political forces applied to the Constitutional Court to contest the constitutionality of 8 articles of the Law on Funded pension system. The CC made the decision to discuss the petition by NA deputies on March 28.

### **NKR recognition**

The National Assembly turned down the draft law on Recognition of Nagorno-Karabakh Republic authored by Zaruhi Postanjyan on November 13, with 10 votes in favor, no votes against and 1 abstaining. The coalition did not participate in the vote, stating that they did not deem the adoption of the draft advisable. The only deputy abstaining was Aleksandr Arzumanyan, with ARF and Heritage deputies voting in favor. The government and the lead committee, the Standing committee on Foreign relations had not issued a favorable conclusion regarding the draft. It was included in the agenda of the four-day sittings and discussed since it was declared extraordinary by the Heritage.

This draft, due to being again recognized as extraordinary, was discussed also by the National Assembly of the 4<sup>th</sup> convocation. Back then, the entire 7-member Heritage faction was the author. The government and the lead committee had again issued an unfavorable conclusion and the coalition (RPA- PAP- RoLP) had announced its decision to vote against the draft.

The plenary vote on the draft law was scheduled for October 28, 2010. Raffi Hovhannisyan proposed holding the vote 2 four-day sitting later, on December 9 following the OSCE summit to be held in Astana.

On December 9 the draft law was discussed and rejected. Only 13 deputies in total supported it with no one voting against or abstaining.

### **The issue of Nagorno-Karabakh in election platforms**

The issue of recognition of NKR has been periodically appearing on the NA agenda since 2008 but is not adopted in order to not jeopardize the negotiation process of NK conflict resolution

taking into account that the key subject of the ongoing talks under the auspices of OSCE Minsk Group is actually the clarification of the status of Nagorno-Karabakh.

Despite the tactical differences in terms of the methodology and mechanisms of the resolution process itself, the election programs of the Armenian political forces in principle show an agreement over moving forward with the negotiation process, on one hand in order to maintain the existing status quo, on the other hand to avoid steps leading to the resolution of the issue by force.

Through the comparative review of election programs several common approaches can be distinguished. First, the inevitability of negotiations, second, making NKR a full party in the talks as a matter of priority and the third NKR's current status, NK's security and ensuring land communications between Armenia and NK. Somewhat different from this general picture are the programmatic approaches of Heritage and ARF. For Heritage the starting point is the recognition by Armenia of NKR's independence and sovereignty, which is at the core of the draft law authored by them. And the ARF brings forth the idea of signing a strategic alliance between Armenia and Artsakh thus guaranteeing Nagorno-Karabakh's security. Forging a strategic alliance is another form of recognition of NKR's sovereignty and perhaps for this reason the ARF in full voted in favor of the draft submitted by the Heritage.

The key issue which essentially remains open in the election programs of all parliamentary factions is the fate of the regions adjacent to former NK Autonomous region, controlled by the Armenian forces and part of present NKR which are subjects of negotiations.

## COMMITTEE ON ETHICS

### NA 5<sup>th</sup> convocation, 4<sup>th</sup> session

During the 4<sup>th</sup> session of the National Assembly of the 5<sup>th</sup> convocation the Ethics Committee held only 2 sittings: one at the start of the session, on September 24 and the other at the end of it, on December 24. This means that the committee received only 2 petitions that were in its purview. Both were associated with RPA deputies, the NA vice-president Hermine Naghdalyan and Manvel Badeyan. The review of the first petition was declined by the committee, the second one was admitted for proceedings at the end of the year and will be reviewed during the spring session.

### **The committee received both petitions from NGOs.**

Transparency International anticorruption center had based its petition on the August 29 publication in "Hetq" periodical entitled "A 409-million dram government procurement contract was signed with the company owned by Naghdalyan". The NGO asked the committee to recognize that Hermine Naghdalyan's simultaneous engagement in entrepreneurial activity and law-making work is a violation of ethics rules of the NA deputy. Upon review of the petition the committee concluded that the petitioner had not presented any document or evidence attesting that Hermine Naghdalyan had failed in her duty to present a statement on

conflict of interest during the sittings of the National Assembly, committees or sub-committees. On the other hand, deputy Hermine Naghdalyan had submitted a letter to the committee reporting that the 100% share of “Sisian BUAT” company mentioned in the article was put under trust management. Stating that the deputy complied with all the required documentary arrangements, the Ethics Committee rejected yet another petition received by Transparency International anticorruption center.

At the end of 2013 the Ethics Committee received the first petition from the ethnic minority representatives. The petition by Sinjar Yezidi National Union and Yezidi National Committee NGOs concerned RPA deputy Manvel Badeyan. The deputy, answering a question by journalists on holding the “What? Where? When?” game in Russian language had said, “Hey, are you really that narrow-minded, that's how you think? If a random Yezidi on the street asked that, I would be surprised.” The petitioners demand that the committee deem the conduct of the deputy unethical and have Mr. Badeyan personally extend a public apology to the Yezidi people. The conclusion on the review of this petition will be presented by the committee already in 2014.

***Note: During the 4th session of the National Assembly of the 5th convocation, the ad-hoc committee on Ethics held only 2 sittings and received 2 petitions. One of the petitions was declined, the other was admitted for proceedings. For comparison, during the NA 3rd session the Ethics Committee had held 14 sittings, received 6 petitions, with only 1 admitted for proceedings.***

### **The Ethics Committee in crisis**

Throughout the 4<sup>th</sup> session of the parliament the Ethics Committee of the RA National Assembly was noted for its idleness. Its formal existence in the parliament was in no way reflected in the overall work of the National Assembly. Growing public trust deficit towards the committee over the previous NA sessions due to its controversial, politicized work, deviating from its true mission led to a crisis for the committee in this session. This was manifested in substantial, structural, organizational and legal regulation aspects.

Comparative statistics show that the number of petitions addressed to the committee regarding NA deputies has significantly dropped. The reason behind this is not the scarcity of issues of ethical nature during the 4<sup>th</sup> session, but the deepening formalization and loss of substance of the committee, as an internal disciplinary-supervisory body. It is not perceived not as a structure intended to balance the ethical conduct of deputies and institute the principles of conflict of interest, but one that serves or protects the interests of the political majority on moral and psychological levels. For this very reason at the beginning of the session the Armenian National Congress faction, as promised earlier, recalled its representative refusing to participate in the future work of the committee. Another oppositional faction, the ARF, had

expressed willingness to do the same. For the time being it is hopelessly attempting to initiate legislative amendments that would return the Ethics Committee its real mission, although it is evident that this will turn impossible without the will and intent of the NA political majority.

The committee has practically fully exhausted its resource of public trust particularly after the recent legislative amendments concerning the setup and leadership mechanisms. In general, the practice of rejecting petitions that are not backed up by evidence or are ill-founded makes it virtually pointless to turn to the Ethics Committee. In almost all cases the decisions of the committee are based solely on letters and documents “absolving” the deputies.

The course of the case regarding the NA deputy chairman sent an important signal associated with the conflict of interest by deputies, mainly due to the existing loophole in legislative regulation. The conflict of interest that deputies may face is covered in the NA Rules of Procedure in the context of their voting, right to legislative initiatives and law-making activity. It is regulated by Article 65 of the RA Constitution and Articles 6.2, 12, 24.2 of the NA Rules of Procedure. Specifically, according to the NA Rules of Procedure “being guided by own interests or those of a related party means for the Deputy initiating legislation or submitting a draft resolution to the National Assembly for debate, submitting recommendations on an issue circulated in the National Assembly, as well as speaking or voting at the sittings of the National Assembly, its committees or sub-committees”. The law does not cover in the context of conflict of interest the legal matters regarding companies, enterprises owned by them or related parties in the scope of functions of the executive, for instance, in the procurement process. For this reason, such issues are automatically left outside the functions and purview of the NA Ethics committee.

During the session under review the work or more precisely the inaction of the NA Ethics Committee demonstrated that the recent amendments to the Rules of Procedure of the National Assembly did not contribute to its higher efficiency or political balance, as cited by the NA majority. The changes were initiated by the political majority to address matters related to the setup, power balance and decision making in the committee. Instead it drove the committee towards a legal-political crisis and the need for legislative amendments. In this session, the presidency of the Ethics Committee as stated by law was to pass to the representative of the largest oppositional faction in the parliament, the ANC. Following its decision to recall its representative from the committee it was led by the deputy chairman. Although the law regulates the issue of reappointment of the vacant post of the member, it does not provide any solutions in case of committee member's resignation and the respective faction's refusal to replenish it.

This decision by ANC shifted the ratio of governmental and oppositional forces in the committee defined by law. In order to maintain the 50/50 ratio between the NA oppositional and non-oppositional forces, as required by law, the coalition representing the NA majority took a political step by recalling one of its members in the committee. However, this was an interim and temporary solution. If even one of the oppositional factions opted out of participation in the work of the Ethics Committee, the issue of legal competency of the committee would arise. During the session this situation with the committee indicated that



there are serious legislative gaps, that require flexible solutions based on consensus between the NA majority and minority.

But the key political factor contributing to the crisis are the lingering doubts of the opposition that PAP plays a double role and is guided by political agreements. This has led to an environment of mutual distrust inside the committee and become one of the key reasons for disappointment with the committee by the NA minority.