PARLIAMENT MONITORING

NATIONAL ASSEMBLY MONITORING

7TH CONVOCATION | 4TH SESSION

4TH REPORT

Բաց Հասարակության Հիմնադրամներ - Հայաստան

«ՄԱՆԴԱՏ» փեղեկատվական հասարակական կազմակերպություն

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YEREVAN 2020

FOREWORD

Mandate NGO presents the monitoring results of the work in the 4th session of the National Assembly of the 7h convocation. The summary was prepared by putting together the observations of the journalists, expert analytical reviews and data of the statistical application of the parliamentmonitoring.am website.

In the reviewed period the National Assembly operated under the state of emergency declared in the country. The report sums up the general trends and indicators of the performance of the parliament, as well as presents details on legislative initiatives and engagement of the NA factions.

The process of initation of a constitutional amendment through a legislative initiative for the first time was addressed.

Also, it covers the issue of setup of the ethics committee in the parliament, the specifics of legal regulation of the parliamentary hearings and work outcome of the inquiry committees.

YEREVAN 2020

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THE NATIONAL ASSEMBLY OF THE 7TH CONVOCATION, 4TH SESSION

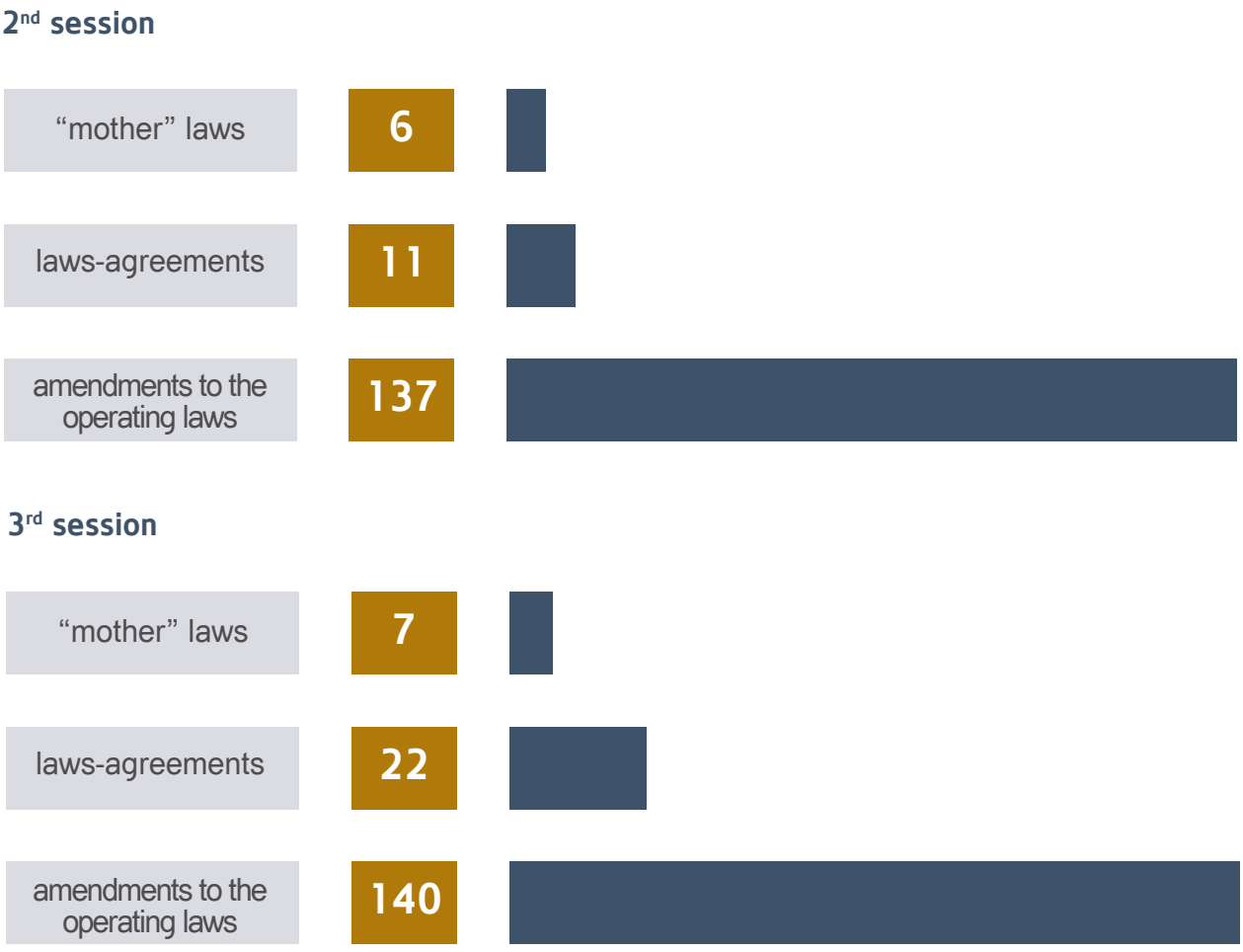
NA work in numbers

During the 4th session the National Assembly of the 7th convocation held 8 regular, 10 extraordinary and 6 special sittings. The latter were held by virtue of law in order to declare a state of emergency in Armenia on March 16, 2020 due to the pandemic and then extend the declared state of emergency for 5 times.

Six extraordinary sessions were convened after the session ended. Five were initiated by the NA deputies and one by the government.

In the 4th session the parliament adopted 345 laws , 4 of which are mother laws, 26 are laws-agreements and 315 are amendments and additions to the operating laws.

Figure 1. Adopted laws by sessions



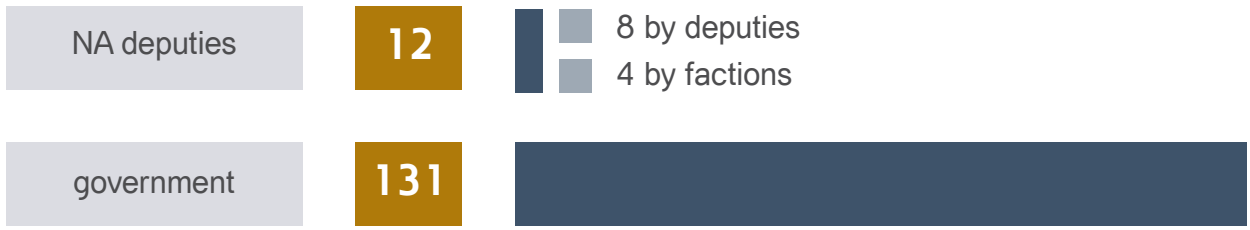
[1] The statistics covers the work of the parliament during the 4th session of the NA of the 7th convocation, between January 20 and June 18 of 2020. The details of the extraordinary sessions held after the session ended are summarized separately.

4th session

57 of the adopted laws are initiated by the parliament (46 by the deputies and 11 by factions), 4 are jointly authored by the government and the deputies.

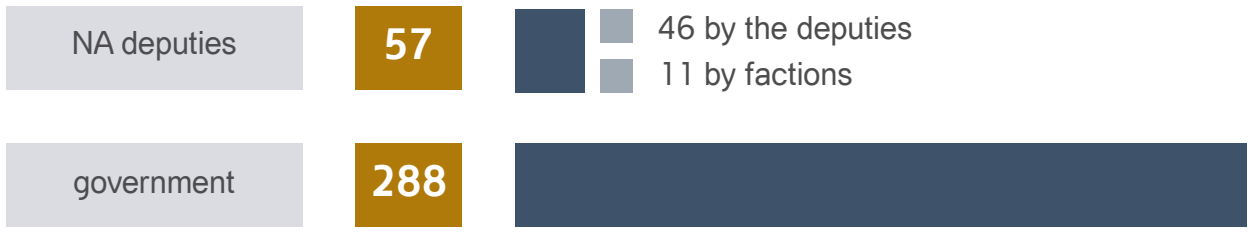
Figure 2 The NA- Government ratio of authored laws

2nd session



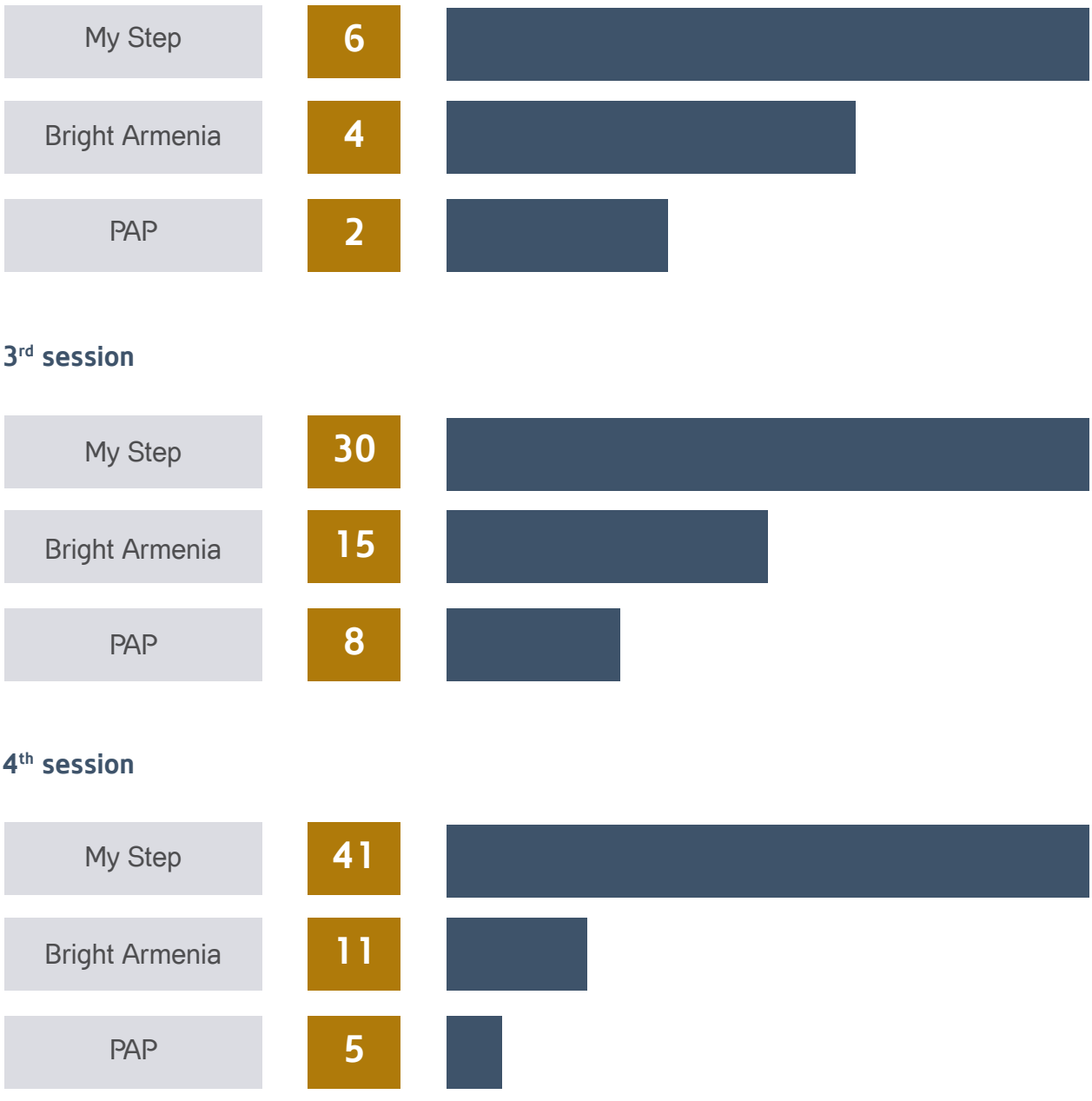
3rd session

4th session



My Step faction deputies authored 41 of the laws adopted in full, 11 were the initiatives of Bright Armenia (all of them were submitted by the faction) and 5 were authored by the PAP faction deputies.

Figure 3. Initiatives of the factions by sessions

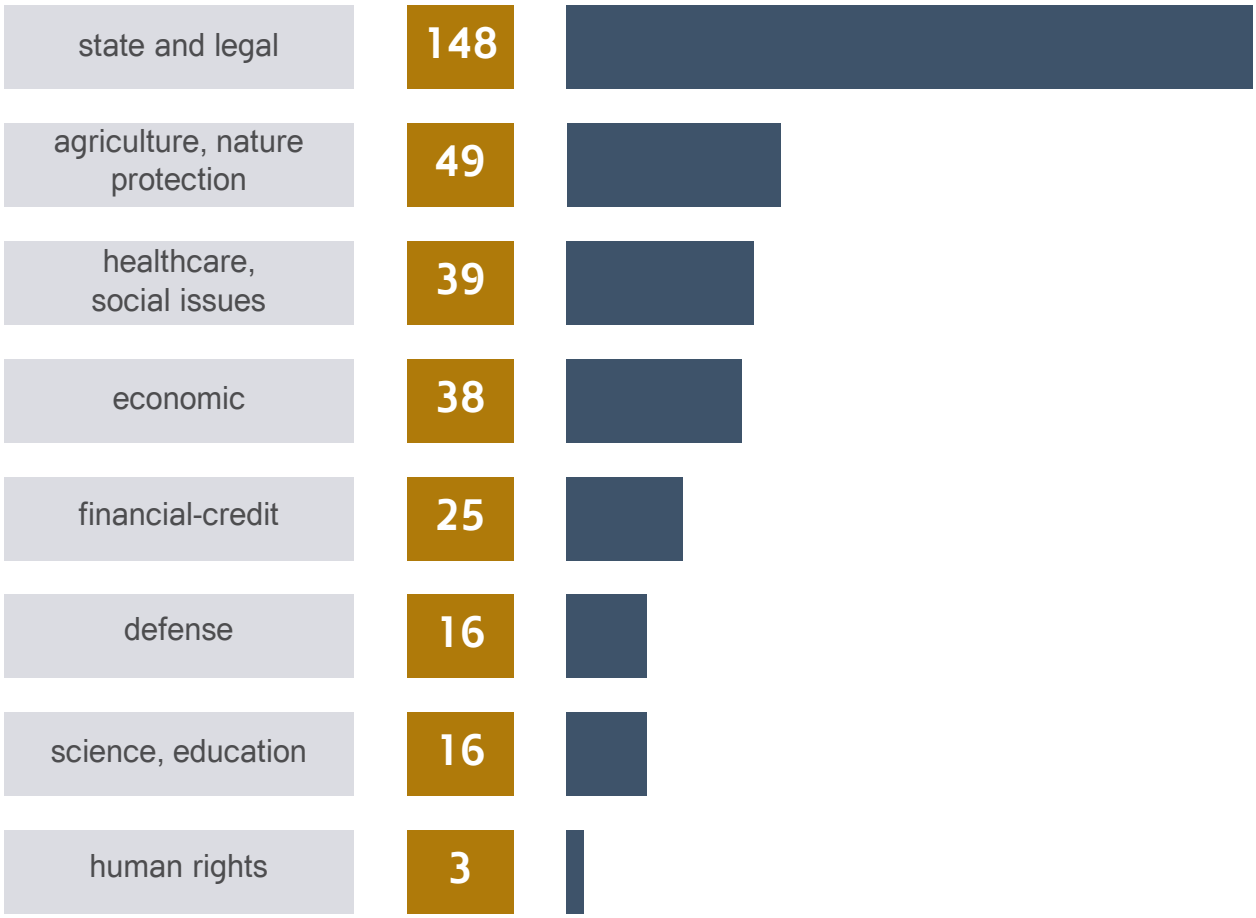


39 drafts laws authored by the deputies and factions passed the first reading or were included on the session agenda and moved to the agenda of the next session. 32 of them are initiated by My Step, 1 by Bright Armenia and 6 by PAP.

120 draft laws not included on the agenda are in circulation, with 76 of them authored by the deputies and factions. My Step put in circulation 59, PAP 10, and BAP 4 drafts.

The vast majority of the adopted laws concerned the state-legal sector.

Figure 4. Adopted laws by sectors



The committee on Protection of Human Rights was the lead one for 1 question discussed over the session and 3 questions regarding the protection of human rights. The standing committee on European Integration was not the lead one for any question discussed over the session.

The parliament voted against the inclusion of 21 legislative initiatives on the session agenda. Eleven of them were initiated by PAP and ten by BAP.

Figure 5. Declined drafts by sessions

3 legislative initiatives were discussed and declined in a vote over the first reading. (The government, My Step and BAP each had 1.)

At the start of the session the National Assembly adopted the draft decision on holding a referendum on the draft constitutional amendments concerning the setup of the Constitutional Court and at the end of the session the parliament declared it null and void. The referendum on constitutional amendments set for April 5 was not held due to declaration of a state of emergency on March 16 and its extension.

For the first time the parliament exercised its authority to make amendments to the Constitution. On June 22, 2020 it adopted a draft proposing amendments to the Constitution by reformulating Article 213 of the Constitution stating that the authority of the Constitutional Court member (judge) who has been in office over 12 years is deemed expired.

During the session the parliament approved the performance report for the 2019 budget, heard and took into consideration the report on the course of implementation and results of the Government Program in 2019 and the annual communications of the Defender of Human Rights, Chief Prosecutor, Television and Radio commission.

The National Assembly elected Head of Central Bank and appointed one member of the Public Services Regulatory Commission.

Noteworthy facts

State of Emergency

- During 3 out of 5 months of the 4th session of the 7th convocation the parliament operated under the state of emergency.

- 6 sittings were convened by virtue of law and 2 after the end of session. The state of emergency declared on March 16 was extended 5 times. The last special sitting was held on August 12.

- The 2 oppositional NA factions submitted draft decisions 3 times (twice Bright Armenia, and once Prosperous Armenia) on lifting the state of emergency or easing its restrictions. The drafts were not adopted.

- Under the state of emergency a number of important initiatives were discussed and adopted without the parliamentary opposition with only My Step faction deputies voting. The sittings were often held late at night.

- When adopting the amendments to the laws on the Legal regime of the state of emergency and Electronic Communication proposed by the government the parliamentary majority failed to secure a required number of votes in favor. The package was adopted the same day, over the second extraordinary sitting initiated by the government with the same agenda.

Constitutional amendments

- For the first time the parliament made amendments to the Constitution through a legislative initiative.

- Prior to making amendments to the Constitution the parliament attempted to resolve the issue of the Constitutional Court crisis through referendum. The process was suspended because of the state of emergency declared due to the pandemic.

- The parliament annulled the decision on holding a referendum adopted at the beginning of the session only after amending the Constitution by law.

- By amendments made to the NA Rules of Procedure the head of the parliament is vested with the authority to sign the amendments to the Constitution and publish them.

- The initiatives regarding the constitutional amendments as well as the Constitutional Court were authored exclusively by My Step deputies. These were voted on and adopted only by the parliamentary majority.

Legislative work

- Over the 4th session more extraordinary sittings were convened than regular ones (regular- 8, extraordinary- 10). The number of extraordinary sessions was also unprecedented: after June 18 six extraordinary sessions were held within one month.

- Over the 4th session the parliament adopted twice as many laws compared with the 3rd session (3rd session- 169, 4th session- 345).

- Compared to the previous session the proactiveness of the parliament decreased: only 57 or 17% out of 345 adopted laws were authored by the deputies and factions (the NA-Government ratio in the 3rd session was 30/70).

- During the 4th session My Step faction authored around 72% of the laws submitted and adopted by the parliamentarians. Compared with the 3rd session this figure increased by 16%, for the parliamentary majority and decreased by 15% for the oppositional factions.

- We see the same picture with the drafts put into circulation during the session: 78 % is authored by My Step deputies, 22% by PAP an BAP together. In the previous session this ratio was 58% to 42%.

- Over the 4th session the NA factions did not use their right to present an interpellation to the Government.

- Bright Armenia faction continued submitting all the draft laws put into circulation on behalf of the faction. My Step and Prosperous Armenia factions did not put into circulation any draft in that format .

- The inclusion of 21 legislative initiatives on the session agenda was declined in a vote (11 by PAP and 10 by BAP). Three legislative initiatives were discussed and declined in a vote in the first reading (Government, My Step, BAP).

- The draft law on introduction of isolation allowance was carried unanimously in the first reading and declined in the second reading by the majority itself. The opposition supported the initiative.

- The draft law by Bright Armenia regarding the transparency of donations to the community which passed the first reading was also declined.

- A tendency to “push up” the number of legislative initiatives was noted. Amendments were proposed or made to the same law through draft laws authored by the same faction and even the same deputy.

- The vast majority of the adopted laws concerned the state-legal sector. The committee was the lead one for nearly half of the laws discussed during the session.

- The committee on Protection of Human Rights was the lead one for 1 question discussed over the session and 3 questions regarding the protection of human rights. The standing committee on European Integration was not the lead one for any question discussed over the session.

Ethics

- Over the 4th session an ad-hoc ethics committee was not set up either, despite at least 3 contentious incidents noted (Gevorg Petrosyan-Arman Babajanyan, Alen Simonyan-Edmon Marukyan, Sasun Mikayelyan-Edmon Marukyan).

- Following the outrageous incident in the NA hall involving Sasun Mikayelyan and Edmon Marukyan the BAP left the plenary hall stating that they were awaiting a political and legal statement regarding it. It ended its boycott 10 days later.

- For the first time the NA President Ararat Mirzoyan applied a disciplinary measure and removed 4 PAP members from the plenary hall for the rest of the day. He issued a warning to Edmon Marukyan twice, Gevorg Petrosyan once and Alen Simonyan once.

- After the session ended My Step faction put into circulation an amendment draft to the NA Rules of Procedure to regulate the setup of a permanently working Ethics committee before each session.

[2] After the end of the session, in July, a draft was put into circulation on behalf of My Step faction proposing amendments and additions to the constitutional laws on the NA Rules of Procedure envisaging the introduction of an ethics committee in the parliament operating on a permanent basis.

Deputies, factions

- Over the 4th session the NA satisfied the motions by the Chief Prosecutor to initiate a criminal prosecution against the head of Prosperous Armenia faction Gagik Tsarukyan and to incarcerate him.

- This is the first case, when the party leader is charged with committing organized election fraud.

- The Prosperous Armenia faction called the motions by the Chief Prosecutor a political persecution and responded by boycotting the work of the parliament.

- During the session deputies Tigran Urikhanyan and Sergey Bagratyan left the Prosperous Armenia faction. Later Mane Tandilyan from Bright Armenia put down her deputy mandate.

- The list of top ten deputies who voted in favor the most during the session consists only of My Step deputies. The list of top ten deputies who voted against the most consists only of Bright Armenia deputies. The lists of top ten deputies who abstained in the vote, did not vote and were absent contain Prosperous Armenia deputies with 1-2 exceptions.

- The list of top ten absentees over the session is headed by My Step member Taguhi Tovmasyan (due to maternity leave). Leader of Prosperous Armenia Gagik Tsarukyan is the second. The third is Eduard Babayan from PAP, the 4th is Vardan Ghukasyan (PAP) and the 5th is Davit Manukyan (PAP).

- Based on the results of 4 sessions of this convocation the top absentee of the parliament is the head of PAP faction Gagik Tsarukyan. Four out of top five absentees are PAP faction deputies.

- During the session Ararat Mirzoyan (My Step) voted in favor the most. The deputy with the most votes against is Armen Yeghiazaryan (Bright Armenia). Sergey Bagratyan (Prosperous Armenia) is the one who abstained the most and Tigran Urikhanyan (former PAP member) did not vote the most.

- PAP member Mikayel Melkumyan is the deputy who asked questions and made speeches the most in the parliament.

- 20 out of 132 deputies never asked questions or made speeches.

PROACTIVENESS, ENGAGEMENT

My Step faction: During the 4th session of the 7th convocation 41 of the drafts authored by My Step deputies were adopted in full, 32 passed the first reading and 59 drafts are in circulation. Two of the draft laws authored by the faction were discussed and declined in a vote during the plenary sitting.

According to Parliamentmonitoring.am website statistics during the session Ararat Mirzoyan is the deputy who voted in favor the most from My Step faction, 313 instances. Five faction members voted against the most, 33 times: Vardan Atabekyan, Hayk Gevorgyan, Tatevik Hayrapetyan, Tigran Urikhanyan, Gevorg Papoyan. The one who abstained the most is Yerjanik Hakobyan, 14 instances, and Arsen Mikhailov did not vote the most, 28 instances.

Taguhi Tovmasyan is the top absentee with 332 absences (maternity leave). She is followed by Aram Khachatryan, 157 absences. The most active deputy is Artak Manukyan with 28 questions and 34 speeches.

11 out of 88 faction members never made speeches or asked questions.

Prosperous Armenia faction. During the 4th session of the 7th convocation 5 of the drafts authored by Prosperous Armenia faction deputies were adopted in full 1 passed the first reading, 10 draft laws are in circulation. 11 of the draft laws authored by the faction were not included on the agenda.

According to Parliamentmonitoring.am website statistics during the session the Prosperous Armenia faction's deputy Arayik Aghababyan voted in favor the most, 238 times. Arman Abovyan voted against the most, 32 instances. Sergey Bagratyan abstained in the votes the most, 26 times, and Iveta Tonoyan did not vote the most, 53 times. The top absentee is Gagik Tsarukyan with 253 absences, followed by 2 deputies with 252 absences. Mikayel Melkumyan is the deputy with the most questions asked, 65, and speeches made, 75.

8 out of 25 members of the faction never made speeches or asked questions.

Bright Armenia faction: During the 4th session of the 7th convocation 11 of the drafts authored by the Bright Armenia faction deputies wer adopted in full, 1 passed the first reading, 4 draft laws are in circulation. 10 of the draft laws authored by the faction were not included on the agenda as a result of a vote.

[3] The statistics covers the work of NA deputies and factions between January and June 30, 2020

According to Parliamentmonitoring.am website statistics during the session 4 deputies of the Bright Armenia faction, Gurgen Baghdasaryan, Armen Yeghiazaryan, Anna Kostanyan and Ani Samsonyan, voted the most, 255 times. Armen Yeghiazaryan is also the one with the most votes against, 46 times. Sargis Aleksanyan abstained the most in the votes, 254 times. Mane Tandilyan voted the least, 46 times and was absent the most, 117 times. Arkadi Khachatryan asked questions the most, 19 questions, whereas Ani Samsonyan and Edmon Marukyan made speeches the most, 24 times.

Only 1 out of 17 faction members, Rubik Stepanyan never asked a question or took the floor.

Legislative productivity of the parliament

The indicator of the legislative productivity of the parliament increased by 100% compared to the previous session.Over the 4th session the National Assembly adopted twice as many laws compared to the 3rd session (169 in the 3rd session, 345 in the 4th).

So, in the same amount of time the parliament adopted the draft laws nearly twice as fast and by this indicator it approached the National Assemblies of previous convocations, where the discussion and adoption of draft laws had often turned into a mechanical process.

However, in the 4th session the National Assembly of the 7th convocation operated under the state of emergency and an unprecedented force majeure situation. The sharp increase of the adopted laws was to an extent due to countermeasures initiated by the government targeting the rates at which the pandemic spread.

The increase in the number of laws changed the debate- and consensus-based environment for the discussion of the draft laws and led to controversial conduct of the factions in the lawmaking work. This period was also marked by a low level of coordination and organization.

Specifically, the parliament did not adopt the package of amendments to the law on the Legal regime of the State of Emergency and other related laws submitted by the government, which was not however due to a fundamental disagreement with the government since the government and the NA majority with no exception acted by a team logic in the context of the legal regime of the state of emergency and the fight against the pandemic. The draft law failed to pass due to deputies' disorganized and inconsistent behavior at the time of voting.

The government initiated the second extraordinary sitting in an expedited mode during which the parliament adopted the package in the first and second readings.

Cases were noted when the members of the same faction submitted different drafts proposing amendments and additions of almost the same substance to the same law. Or, several drafts proposing amendments to the same law separately authored by the government and the NA factions were discussed in the same sitting.

For instance, in the regular sittings that started on April 14 two different drafts authored by My Step faction deputies proposing amendments and additions to the Criminal Procedure Code were discussed. Both concerned investigative actions carried out in the course of preliminary investigation, with one of the authors being the same deputy. The drafts were circulated the same day and the entire process of their discussion and adoption was performed concurrently.

Or, the Bright Armenia faction, 2 days apart, on February 17 and 19, put into circulation two different drafts, proposing amendments and additions to the law on the Bodies of Self-government. Their substance was very concise and concerned a very small scope of regulation of legal matters. One of them concerned the receipt of donations by the community and the other one pertained to the procedure of filling the vacancy of the head of the community non-commercial organization.

In another case on February 4 and 5 the sitting of the NA Council which was to discuss the agenda of the extraordinary sitting was postponed twice only because My Step faction decided at the last minute to include on the agenda a legislative package seeking a resolution of the Constitutional Court crisis as a matter of urgency. It contained drafts proposing amendments and additions to the NA Rules of Procedure, laws on Referendum and on the Constitutional Court and had to be discussed in the first and second readings over the same extraordinary sitting. This was mainly due to the fact that at the last moment the parliamentary majority, leaving behind the initial intention to adopt the constitutional amendments through a vote of the NA, preferred holding a referendum and it became necessary to promptly adapt the drafts to this political decision.

PROACTIVENESS AND ENGAGEMENT OF THE PARLIAMENT IN LAWMAKING

The 4th session broke the trend of the change in the ratio of adopted laws in favor of the parliament noted in the previous three sessions. In the 2nd session the adopted drafts authored by deputies and factions made up 9% of the total number, in the 3rd session this figure was 30% of the total number and in the 4th session it was 16,5%.

In absolute numbers, however, in the 4th session the number of laws authored and adopted by the deputies and factions increased by 5 or 7.5%: this means that the parliament got slightly more proactive.

Therefore, the noted decline is due to the sharp, nearly 2.5-fold increase in the proactiveness of the government compared with the previous session (116 draft laws submitted by the government were adopted in the 3rd session and 288 in the 4th session).

The first semester of 2020 saw an unprecedented number of special as well as extraordinary sitting/session held and the initiatives by the parliament and the government. Not only the number of special sitting, 6, but also the total number of extraordinary sitting/sessions, 16, held during and after the session mainly initiated by the government is exceptional. It is twice the number of regular sittings held during the session. Objective and subjective reasons lay at the root of the situation.

The conditions dictated by the state of emergency and the need to respond efficiently to the pandemic and adjust the legislation to its development, as well as provide legal grounds for the preventive measures taken by the government were the objective reason. The main subjective reason was the crisis emerged around the Constitutional Court, to overcome which the parliamentary majority chose the tactics of discussion and adoption of legislative and constitutional amendments through expedited procedures.

The engagement of the parliamentary factions in the lawmaking process

The number of laws circulated and adopted over the 4th session that were initiated by the parliamentary forces increased given the sharp rise in the number of drafts authored by My Step faction and along with the decline in the number of draft laws circulated by the opposition and adopted.

During the 3rd session My Step faction authored 56% of the 53 laws submitted by the parliamentarians and adopted and nearly 72% in the 4th session. This way, the share of My Step in the number of laws authored by deputies and adopted in full increased by 16%. At the same time the figure for the parliamentary opposition in the 3 session decreased by 15% compared to the 3rd session.

The situation is the same also with the draft laws authored by the deputies which passed the first reading or were included on the agenda of the session and moved to the next session.Even though the number of legislative initiatives nearly doubled compared to the 3rd session (39 in the 4th session, 17 in the 3rd session), the overwhelming majority of them, 82% again belongs to My Step faction and only 18% to PAP and BAP. However, during the 3rd session this ratio between the NA ruling and oppositional factions was 53% to 47%.

All the 21 drafts declined in a vote and not included on the agenda by the parliament are almost evenly distributed between the 2 oppositional factions.

Consequently the parliamentary opposition shifted its work to the political dimension assuming a posture of resistance, vehement criticism of the drafts, programs and sectoral measures presented by the Government and the parliamentary majority contributing to a higher level of confrontation and tension.

When it comes to lawmaking another telling indicator of the proactiveness of the parliamentarians is the ratio of drafts circulate but not yet included on the session agenda. Over the 4th session 59 out of 76 such drafts (78 %) were authored by My Step deputies and 17 (22 %) jointly by PAP and BAP. This figure for the previous session was 58%-42%.

The session saw almost no draft laws coauthored by the majority and minority representatives. Only one case was noted when the representatives of the three factions coauthored, circulated and fully adopted a legislative package proposing amendments to the Electoral Code and related laws, which introduce the proportional electoral system for the election of heads of communities having over 4,000 voters. Several draft laws included on the agenda were submitted by My Step faction deputies and coauthored with then PAP faction deputy Sergey Bagratyan. This was a manifestation of private collaboration rather than collaboration among factions.

The unexercised right of interpellation

Over the 4th session the NA factions did not exercise their authority provided by the NA Rules of Procedure to submit a written interpellation to the member of the cabinet and based on the response raise the question of the future tenure of the member of the government and even present a motion of no confidence to the prime minister.

In the parliament of the 7th convocation this tool was used twice, in the 2nd and 3rd sessions, and both times this right was realized by the Bright Armenia faction. Specifically, the opposition faction raised the question of Minister of Finance Atom Janjughazyan's removal from office in the 2nd session and the Minister of Environment Erik Grigoryan's in the 3rd session.

The faction can submit an interpellation to the government members no more than once over one regular session, and upon receipt of interpellation maximum within 30 days as instructed by the Prime Minister the corresponding member of the cabinet sends the President of the National Assembly the written response to the interprellation.

The interpellation is discussed over the NA four-day sittings, and consequently the faction can

- either propose adopting a decision of the National Assembly on presenting the question of future tenure of a given member of the cabinet for the review of the Prime Minister, which is voted upon without discussion,
- or announce that the faction intends to present a motion of no confidence to the Prime Minister, after which this faction can within 24 hours of the end of the discussion submit to the President of the National Assembly a draft decision of the National Assembly on presenting a motion of no confidence to the Prime Minister which is discussed under the procedure prescribed by the Rules of Procedure.

Article 115 of the Constitution states that a draft decision of the National Assembly on seeking non-confidence against the Prime Minister may not be submitted or discussed during state of emergency or martial law. Given the legal regime of the state of emergency declared on March 16 and then extended, the interpellation could not be used along with circulation of the draft decision on seeking non-confidence against the Prime Minister.

[4] Constitutional Law on the Rules of Procedure of the National Assembly, Articles 8 and 121

The situation however did not deprive the factions of the opportunity to raise the question of future tenure of an individual member of the cabinet and present it for Prime Minister's review as a result of the discussion of the interpellation. In case of such decision this would not secure the support of the NA majority, but could become an opportunity to present political positions regarding the management of the existing situation or sectoral policy. Especially given that the procedural and legal regulations of this institution create a real opportunity to fully and broadly discuss the matter of the interpellation in the parliament and get clarifications from the representatives of the Government and those in charge of the sectors.

THE NATIONAL ASSEMBLY UNDER THE STATE OF EMERGENCY

The 4th session of the 7th convocation proceeded mainly under the state of emergency declared in the country due to the coronavirus pandemic. During 3 out of 5 months of the session the parliament operated under the state of emergency.

6 special sittings were convened by virtue of law with 2 of them after the end of the session. The term of the state of emergency declared on March 16 was extended 5 times.

The process of introduction of a state of emergency, legal grounds and scope

Article120 of the Constitution states that in the event of an imminent danger posed to the constitutional order, the Government shall declare a state of emergency, take measures resulting from the situation and address the people thereon.

In case of declaration of a state of emergency, a special sitting of the National Assembly shall be immediately convened by virtue of law.

Under the same article of the Constitution: "The National Assembly may lift the state of emergency or cancel the implementation of measures provided for under the legal regime of state of emergency, by majority of votes of the total number of Deputies.

So, in the process of declaring a state of emergency the Constitution has vested the Government with the primary mandate leaving to the parliament the opportunity to merely be informed and "ratify" the introduction of the state of emergency through a special sitting of the NA.
In order not to render this right of the government absolute the parliament is furnished with legal levers to lift the state of emergency or reduce the restrictions provided by it. It includes the parliament's ability to overcome the decision of the government on declaring a state of emergency or extending it through a simple majority of votes.

The government adopted the decision to declare a state of emergency on March 16, 2020 and a special sitting of the National Assembly was held on the same day. Under the Constitution the holding of a special sitting is basically imperative considering that if within 4 hours of publication of the decision of the government on declaration of the state of emergency the number of registered deputies is not sufficient for the validity of the sitting, the sitting commences without securing it.
Over the special sitting the factions are given the right to submit a draft decision of the National Assembly on lifting the state of emergency or any measure provided under the legal regime of the state of emergency. The decision is adopted by the majority of the total votes of the deputies and signed by the President of the National Assembly and published with no delay.

The two oppositional factions of the NA exercised their constitutional right to cancel the implementation of measures provided by the legal regime of the state of emergency.

On April 13 in the 2nd special sitting of the NA the Bright Armenia faction presented a draft decision proposing annulment of certain measures provided under the legal regime of the state of emergency: namely, allow the operation of the Yerevan Metro, transport between marzes and certain business entities. The National Assembly did not adopt the draft by Bright Armenia: only the faction submitting the draft voted in favor of it.

On July 13, over the 5th special sitting of the NA, the Prosperous Armenia faction submitted a draft decision proposing the lifting of restrictions on holding assemblies and public events stated in Chapter 4 of the Decision of the Government dated March 16, 2020 on declaring a state of emergency. 20 BAP and PAP deputies voted in favor of the draft.
On August 12 during the 6th special sitting of the NA the Bright Armenia faction submitted the 2nd draft proposing lifting of the state of emergency. The decision was not adopted.

The Consitution prescribes that “a state of emergency shall be declared in the event of an imminent danger posed to the constitutional order” and leaves it to the Government’s discretion to assess this threat. It does not specifically define the concept of “the danger posed to the constitutional order”.

This issue is partly clarified by Clause 2 of Article 1 of the law on the Legal regime of the state of emergency according to which “the State of Emergency is declared only in the event of imminent danger to the Constitutional order of the Republic of Armenia including attempts to change or overthrow the Constitutional order of the Republic of Armenia through violence and seize the government, armed riots, civil unrest, ethnic, racial, religious conflicts accompanied by violent acts, terrorist acts, seizure or blocking of special-purpose facilities, formation and operation of illegally armed units, emergency situations”.

The concept of emergency situations was defined in the 1992 law on the Protection of the population in emergency situations with its Article 1 stating that “the situation emerging in a certain area or facility due to a major accident, natural hazards, human induced, environmental disaster, epidemic, livestock epidemic, widespread infectious disease of plants and agricultural crops, use of types of weapons which leads or can lead to human casualties, substantial harm to people’s health and substantial damage to environment, major material losses and disruption of the people’s normal conditions of living constitutes an “emergency”.

The RA legislation does not set a legal procedure for de jure establishment of the state of emergency, even though at the level of general principles the law above prescribes the main duties of the Government, other state bodies, local bodies of self-government, organizations, enterprises and citizens as well as the general means and measures of defense of the population in an emergency situations.

This fact makes the declaration of the state of emergency due to an emergency situation problematic in the sense of legal clarity. In essence, setting grounds in this matter is determined by the publicly legitimate assessment of the situation as an emergency.

The confirmed cases of novel coronavirus in the RA, as well as the fact of qualification of COVID-19 epidemic as a pandemic by the Director General of the World Health Organization on March 13, 2020, are cited as legitimate grounds for assessment in the decision of the RA Government of March 16, 2020 on “Declaring a state of emergency”.

Measures ensuring the legal regime of the state of emergency and main restrictions

The main restrictions of rights and freedoms introduced with the declaration of the state of emergency were stated in the annex to the decision of the government “Measures applied during the state of emergency declared in the RA on March 16, 2020, temporary restrictions

of the rights and freedoms, activities ensuring the legal regime of the state of emergency". Due to the existing issues at the time the key restrictions concerned the entry to and exit from the country, as well as free movement between settlements within the country.

Specifically, at all checkpoints of the state border a special procedure was set for the entry (exit) of persons, vehicles, stay and transportation of cargo, other property, animals, persons and vehicles. The exit of RA citizens through the checkpoint of the land border was prohibited, with the exception of those transporting goods.

It is prescribed that restrictions can be imposed also within the administrative limits of the communities as instructed by the warden associated with the imposition of special entry and exit requirements and implementation of sanitary and antiepidemic activities. For the implementation of the special regime special checkpoints, medical control and examination facilities were to be located throughout the country.

Throughout the country assemblies and strikes were prohibited. In the areas specified in the warden's decision public events involving 20 and more people- concerts, exhibitions, theatrical performances, sporting, cultural, educational, entertainment, celebration and memorial events were prohibited.

Restrictions were introduced in the economic and educational sectors. It was stated that as instructed by the warden the operation of dining facilities, shopping and multi-purpose entertainment centers can be prohibited in certain communities. Throughout the state of emergency the academic activity was stopped at the institutions of educational and extracurricular learning except distant learning and military educational institutions.

By the decision on declaring a state of emergency the work of mass media was also restricted to a certain extent: it was prohibited to publish information on the pandemic and the fight against it that contradicted the official information. The information published in violation of this restriction was to be removed without delay.

NA-Government collaboration trends

Due to the pandemic the National Assembly held 6 special (2 after the session ended) and 8 extraordinary sittings, 6 initiated by the government and 2 by the deputies. Around twenty legislative initiatives associated with the state of emergency were adopted with only 3 of them authored by the deputies. Nearly all drafts were discussed and adopted through a special procedure set at the suggestion of the government.

The government continued setting the agenda. Given that all the legislative amendments proposed by the government were adopted by the parliament (at times with great difficulty) we can state that in the institutional sense the parliament mostly assumed the role of the unconditional supporter of the government's initiatives and prompt legislative solutions.

The exceptionality of the situation however suggests looking at the parliament-government relations in non-standard dimensions given that both the process of introduction of a legal regime of the state of emergency and the constitutional-legal basis for the powers given to the Government vest the latter with the primary mandate in such situations.

The activities by the legislature and the executive directed at the overcoming of the emergency can be broken down into three levels: preventive, control and recovery.

The preventive component of the anti-crisis legislative policy

At the initial stage of the pandemic the government directed its main efforts towards the prevention of its spread and adjustment of the conduct of the society to the mode of the state of emergency, placing the emphasis on the employment of mechanisms of prevention and containment.

On March 20, in an extraordinary sitting held late in the evening the parliament, with 117 votes in favor unanimously adopted the draft package proposing amendments to the Code of Administrative Violations and Criminal Code.

It was stipulated that the violation of isolation or self-isolation rules or other restrictions of the right of free movement under the state of emergency shall result in a penalty in the 100- to 250-fold amount of the minimum salary, while the violation of the restrictions set under the state of emergency on publication or dissemination of information by individuals and legal entities can lead to a penalty in the 50- to 300-fold amount of the minimum salary.

Articles defining two new crimes were added to the Criminal Code. Article 124.1 was added setting a penalty for infecting a person with the novel coronavirus: 400- to 800- fold amount of the minimum salary or detention for a maximum of one month or incarceration for a maximum of one year. In cases when the mentioned deed leads to a person's decease due to neglect, the penalty is incarceration from three to five years.

The second article added to the Code, Article 277.1 concerned the violation of isolation or self-isolation rules or other restrictions of the right to free movement under the state of emergency declared due to an emergency. According to the gravity of consequences sanctions were set starting from a penalty in the amount of a 300-fold to 500-fold of the minimum salary or detention of maximum one month to imprisonment of two to four years along with the possibility to deprive of the right to hold certain posts or engage in a certain activity for up to three years.

The amendments introduced to the Criminal Code also provided legal explanation of the terms “isolation” and “self-isolation”.

The legislative amendments sought to put into practice the isolation and self-isolation mechanisms and consequences for violation of restrictions of dissemination of information through application of legal liability measures. The state essentially, created an enforcement tool to turn restrictions under the pandemic into a lifestyle. So the imposition of strict sanctions and administrative penalties sought to deter the citizens from unlawful actions.

But once these legislative amendments came into force it became clear very quickly that not only were they inviable with their inadequacy, but could also potentially raise social resistance amid deepening socio-economic crisis. In addition, the imposition of penalty for the violation by the mass media of information restrictions effective under the state of emergency, due to many legal unclarities is perceived as a bludgeon to willfully constrain the freedom of speech.

In the special sitting of the NA convened to extend the state of emergency for the first time the Government in agreement with the parliament lifted the restrictions on information related to the topic of the coronavirus. Although this was done citing a small number of publications raising panic, it was prompted by the growing discontent by the mass media.

The government and the parliament were forced to revise the sizes of penalties hastily set only a month earlier for violating the restrictions of the right of movement.

This was also due to the sharp change in tactics of the fight against the pandemic along with the rising number of the infected. So the concept of strict isolation was replaced with the concept of strict control along with extending the freedom of economic and labor activity.

The control component of the anti-crisis legislative policy

During the extraordinary NA sitting of March 30 initiated by the government the legislative package on making amendments and additions to the laws on the Legal regime of the state of emergency and on Electronic communication were discussed. The government proposed obliging public electronic communication network providers to provide information to determine the customers' geolocation and the range of contacts by phone during the state of emergency declared due to the pandemic. A separate clause stated that while providing the data no control over the content being transferred was allowed, and the transferred and processed data were to be destroyed after the end of the state of emergency, maximum within one month.

The parliamentary opposition opposed the package finding the interference with human rights and freedoms excessive as well as questioning the efficiency of the proposed mechanism.

The package having passed the first reading owing to the votes of My Step faction deputies, was not adopted in the second reading on March 31. BAP and PAP factions did not participate in the vote. 65 deputies from My Step voted in favor, whereas the adoption of the draft required 67 votes in order to pass.

On the same day the government convened the second extraordinary sitting with the same agenda. ՊԱՊ և ԲԱՊ faction deputies did not attend the sitting. The problematic draft was again discussed and voted on over the first and second readings. The draft law was adopted with 71 votes in favor.

The draft law on making amendments to the law on the Legal regime of the state of emergency presented by the government at the NA sitting of April 28 initiated by the government also sought to speed up the activities consistent with the emergency situation. It stipulated that in addition to the draft decisions of the Government on declaring a martial law and state of emergency, other draft regulatory documents prompted by the martial law and state of emergency do not have to undergo expert evaluation either.

The recovery component of the anti-crisis legislative policy

Under the state of emergency the considerable share of legislative initiatives were of a recovery nature, pursuing the aim of expanding the service volumes and capacities of the healthcare system on one hand, and bringing the fiscal and economic policy in line with the new situation on the other.

In the extraordinary sitting of April 13 the parliament, with 115 votes in favor, unanimously adopted the draft amendments to the laws on the Medical Assistance and Service to the Population and on Licensing, proposed by the Government, by which the medical facilities were allowed to provide assistance and services not indicated in their license under the state of emergency in the manner set by the government. Medical workers or clinical residents doing their final years of study, without corresponding specialization and qualification were also allowed to provide medical assistance and services upon training.

Most of the recovery-oriented legislative initiatives were aimed at the stabilization of economic, social and budgetary systems.

In the extraordinary sitting of April 28 the parliament made amendments to the Labor Code, providing regulations for issues arising in labor relations under the state of emergency. Specifically, an opportunity to perform job duties remotely was provided clarifying legal matters related to involuntary idle time and compensation, limitation of dissolution of the employment agreement, penalties. An opportunity was provided to work in isolation and self-isolation, under restriction of free movement without causing serious problems in the employer-employee legal relationship.

In the extraordinary sitting of April 22 the parliament adopted unanimously the drafts proposing amendments to the Tax Code authored by Babken Tunyan from My Step and Mikayel Melkumyan from PAP.

Under the first one for capital investments made in Armenia in the period from July 1, 2020 to December 31, 2020 it was allowed not to record the expenses in the minimum time set but leave it at the investors' discretion and set an option of doing it within one year. The second proposed reducing by half the size of fines and penalties for business entities defaulting on their tax liabilities during the crisis, triple the minimum threshold for the lien set on the property of the business entity.

The legal regulations sought to make Armenia more attractive for capital investment in the period of pandemic and mitigate the economic hardships for business entities due to the situation.

By amendments to the law on the State Budget 2020 under the state of emergency the Government is vested with new powers for management and further attraction of public funds.

The government was given the authority to increase the deficit and use, as needed for the budget expenditures to fight the pandemic, the funds generated from the sale or privatization of share of the state in commercial organizations as well as from the sale of government securities and shares, also borrowed funds received in the budget year but not included in the sources of financing of the state budget deficit, receipts from the placement of government treasury bonds, unassigned amounts at the beginning of the year.

By another amendment the Government was allowed to exceed the set limits when making reallocations in the budget. Now it could direct funds earmarked in the budget for other sectors to the implementation of programs associated with the pandemic without the consent of the NA.

The government justified the need for this authority by major external and internal adverse impact. For the fight against the pandemic and mitigation of its consequences and impact the government planned to attract 260 million drams, while the budget deficit would total 324 billion drams.

The qualifications and criticism by both oppositional factions regarding the amendments proposed to the Law on the State Budget 2020 were basically the same and concerned the idea of keeping the same level of accountability of the government, the rationale of the decisions and preservation of the NA's participatory and oversight role.

At the suggestion of the government the legislative initiative was discussed and adopted as a matter of urgency. The law was adopted with 102 votes in favor and 17 against. The Bright Armenia faction voted against with the reasoning that without stating it in the law the Government should not be given the authority to autonomously make unlimited expenditure reallocations.
The Prosperous Armenia voted in favor with a qualification, that the reallocations shall have a term or percentage cap. The second qualification concerned the absence of calculations and analysis with regard to the proposals of the government, economic recession, deficit increase and attraction of borrowed funds.

This way the parliament gave the government complete freedom to direct funds in the necessary amount set by the state budget to the implementation of programs seeking to fight the pandemic, mitigate its consequences and recover the economy. It could also attract additional funds from other sources, increasing the government debt and budget deficit, with no need to secure the consent of the parliament.

Ruling power-opposition relationship in the emergency setting

At the initial stage of the state of emergency the parliamentary majority and the opposition acted in a more supportive manner than in the subsequent stages.

When the World Health Organization announced the coronavirus pandemic the campaign for the referendum on Constitutional amendments was underway in Armenia. A public demand to prevent the spread of the pandemic through rigid restrictions and declare a state of emergency was seen. It was noted during the special sitting that all the parliamentary forces supported the decision of the Government on declaring a state of emergency.
The rate at which the virus spread, rise in the deaths, methodological changes in the measures addressing the consequences of the pandemic, inconsistency in the actions and legislative initiatives of the government raised objective and subjective criticism also among the parliamentary opposition directed at the ruling political power.

The first instance of rising tensions between the political majority and minority were the amendments proposed by the government to the laws on the Legal regime of the state of emergency and on Electronic communication. Due to essential disagreement around them the oppositional factions refused to participate in the discussions.
Over the session the parliamentary minority chose the tactics of boycotting in two other cases.

Bright Armenia faction left the plenary hall on April 29 when the amendments to the law on the Budget of 2020 initiated by the Government were discussed. The reason was the scuffle between Edmon Marukyan and Sasun Mikayelyan from My Step.

Conclusions

- Over the 4th session the lawmaking policy reflected the objective priorities in overcoming the crisis under the state of emergency. The parliament shared with the government the responsibility for the efficiency of the extraordinary measures taken for the effective fight against the pandemic and overcoming of the consequences.

- It became clear that the legislative framework and almost the entire spectrum of legal regulations are not set for force majeure situations. The legislative amendments adopted concurrently with the spread of the pandemic and methodological changes in the fight against it partly filled this gap. In the future in order to avoid hasty, haphazard actions and minimize the risks in such potential situations it is necessary to comprehensively monitor and revise the legislative framework so that legal regulations providing more flexibility are in place.

- Holding of sittings in the evening (at times twice during the day) demonstrated that the executive and the legislature tried to act as efficiently and appropriately as possible in the fight against the pandemic regardless of the extent to which the measures taken and laws or decisions adopted were effective.

- By amendments made to the law on the State Budget 2020 the Government was vested with unprecedented authority. The process of budgetary receipts, expenditures, deficit management moved under a more closed procedure undermining one of the most important principles of parliamentarism, that is, the accountability of the executive before the parliament. During the session the NA did not employ the oversight toolset given to it by the Constitution and the NA Rules of Procedure, essentially trusting the sense of responsibility of the executive.

[5] Details in the Issues of Ethics and Conflict of Interest Chapter of the report

Nevertheless, the work of the government during this period, especially in the light of the unprecedented authority and freedoms gained, shall be a subject of a review. Clause 3 of Article 7 of the RA Law on the Legal regime of the state of emergency prescribes that implementation of measures intended under the state of emergency cannot prevent the normal course of work of the National Assembly, the Constitutional Court, courts and the Defender of Human Rights. So already at this stage the NA has the opportunity to exercise its oversight authority with tools such as the setup of the inquiry commission, making an interpellation to the Government, organization of hearings, discussions of the interim performance reports of the government and so on.

The crisis around the Constitutional Court in the 4th session of the NA

Starting from the 2nd session the NA initiated 4 different processes one after the other in order to overcome the systemic crisis arising around the Constitutional Court.

- It applied to the Constitutional Court to terminate the powers of Hrayr Tovmasyan as a judge (member) of the Constitutional Court on the grounds of apparent substantial violation:

- Upon receipt of declination from the Constitutional Court it started working on securing legal grounds to offer the 7 judges of the Constitutional Court the option of early retirement.

- In February of 2020 it adopted a decision on holding a referendum on amending Article 213 of the Constitution which intended to resolve in an imperative manner the issue of termination of office for the Chairman of the Constitutional Court and 6 members. This process was not completed. First, it was suspended due to declaration of the state of emergency, then it was annulled altogether since a different solution was found. In fact before the decision on holding a referendum the option of resolution of the issue within the NA was discussed and dismissed from the agenda very promptly.

- In May (decision on the referendum was not annulled yet) new constitutional amendments were initiated resolving the matter of not 7 but 3 judges/members of the Constitutional Court (in office for more than 12 years). Current chairman of the Constitutional Court was to continue being a judge of the Constitutional Court, but would lose his status of the Chairman of the Constitutional Court.

The process of reformation of the Constitutional Court was almost fully implemented through the efforts of the political majority against the attitude of rejection of the parliamentary opposition. Only the first initiative to apply to the Constitutional Court regarding the removal of Hrayr Tovmasyan from office received the support of the parliamentary opposition (Bright Armenia faction). In all the other instances My Step acted alone mobilizing and securing the number of votes required for the adoption of laws and decisions by consolidating resources.

The initiatives of the National Assembly during the 4th session

Two weeks into the 4th session, on February 6, draft constitutional amendments signed by 44 NA deputies from My Step faction were presented for discussion in the extraordinary sitting initiated by the deputies. The draft proposed rephrasing Article 213 of the Constitution and prescribe that the tenure of the chairman and members of the Constitutional Court appointed before Chapter 7 of the Consitutition took effect, shall stop. The parliamentary majority declined the draft they themselves submitted proposing holding a vote on the decision to put it up for a nationwide referendum exercising the NA's authority under Clause 3, Article 202 of the Constitution.

The decision was adopted with 88 votes in favor and 16 against. The PAP did not participate in the vote and BAP voted against it.

The referendum for Constitutional amendments set for April 5 was postponed due to the state of emergency declared on March 16. As per Article 208 of the Constitution no referendum is held under martial law or state of emergency.

In the extraordinary session of June 30 the parliament annulled the decision of February 6 on Holding a referendum on draft constitutional amendments. It was adopted with 81 votes in favor.

Constitutional amendments4th session

The draft of amendments to the RA Constitution included on the agenda of the extraordinary session of June 22 initiated by the deputies was signed by 54 deputies and submitted by My Step faction. It proposed rephrasing Article 213 of the Constitution as follows: "The term of authority of the member or judge of the Constitutional Court appointed before Chapter 7 of the Constitution took effect and in office for no less that 12 years in total shall be deemed completed and the tenure shall stop."

The procedure and timeline for nominations to the vacant seats of the judge of the Constitutional Court were set out. Under Clause 4 of the article being amended the tenure of the Chairman of the Consitutional Court stopped.

Upon adoption of the draft in the first reading in accordance with the Constitutional law on the NA Rules of Procedure the parliament had to adopt a decision on sending the draft Constitutional amendments to the Constitutional Court. The Rules of Procedure provide the procedure that shall follow the adoption of such a decision, however it does not provide for such a situation when the National Assembly does not adopt the decision on sending the draft to the Constitutional Court.

Taking advantage of this loophole in the legal regulations as well as taking into account the fact that the draft Constitutional amendments concerned the members of the Constitutional Court therefore they could not review the question of this draft's compliance with the Constitution without bias, the NA majority voted against the draft decision during the vote on adopting the draft law on Amendments to the Constitution of the Republic of Armenia in the second reading and in full.

Amendment to the NA Rules of Procedure

In the second extraordinary session convened on the same day the parliament discussed the adoption of the draft (package) of amendments and additions to the constitutional law on the NA Rules of Procedure in the second reading. The package which included also the Judicial Code and the constitutional law on the Constitutional Court passed the first reading on June 3. The amendments concerned legal regulations of appointment to posts, election and nomination of candidates.

But between the first and second readings the proposed draft amendments to the NA Rules of Procedure were completed with one more article concerning the powers of the NA President. Specifically it stated that the NA President shall sign and publish the constitutional amendments adopted by the parliament.

The added article was not put up for a vote in the first reading. It was presented as an editorial change by the key presenter. The extraordinary session lasted only 14 minutes. On June 22 the parliamentary majority with 89 votes in favor adopted the package in the second reading and in full. The PAP and BAP did not participate in the vote.

Amendments to the law on the Constitutional Court

On June 30 the 4th extraordinary session was initiated by the deputies. The agenda also included the question of adopting the draft law on making amendments and additions to the constitutional law on the Constitutional Court in the first and second readings. The draft submitted by My Step faction deputies provides legal regulation to the status of the three members of the Constitutional Court whose powers were terminated as a result of the recent Constitutional amendments.

In the regulations pertaining to the mechanism for filling the vacancies for judges of the Constitutional Court the order of authority held by the RA president, Government and the General Meeting of the judges for nomination of candidates was altered. The government held the primary authority to nominate a candidate, as was already stated in the amendments to the Constitution.

The draft passed the second reading and was adopted in full on the same day, June 30 with 80 votes in favor. Independent deputy Arman Babajanyan was the only one voting against while the oppositional factions did not participate in the vote.

In the course of resolution of the situation around the Constitutional Court the parliamentary political forces revealed their political ambitions, turning it into a tactical tool in the contest for positioning.

My Step faction demonstrated unity throughout the entire process. It was reflected in all main votes when the faction members demonstrated a common logic securing a constitutional majority when necessary.

The Bright Armenia had joined the initiative to apply to Constitutional Court to dismiss Hrayr Tovmasyan on the grounds of substantial violation. However the faction opposed all the further initiatives to overcome this crisis. They viewed anticonstitutional the process of implementation of constitutional amendments to remove 7 members of the Constitutional Court from office through a referendum. The faction initiated a collection of signatures to apply to the Constitutional Court, but the process failed since PAP did not join it.

Later, when the parliamentary majority started a process of implementation of Constitutional amendments through the NA given the annulment of the referendum, with a lot more moderate solutions and outward legitimacy, the faction opposed it questioning its constitutionality. However, this time the BAP itself refused to join the collection of signatures by PAP to apply to the Constitutional Court regarding the constitutionality of these amendments.

The Prosperous Armenia faction was against the initiative to apply to the Constitutional Court to dismiss Hrayr Tovmasyan, did not participate in the vote on the NA decision to hold a Constitutional referendum and did not join the collection of signatures by BAP to apply to the Constitutional Court regarding the constitutionality of that decision.

Interestingly PAP looked at the issue not from the legal standpoint but rather from a socio-psychological one stating that it did not wish to be part of a process that polarized the society.

Matters of ethics and conflict of interest: the need for a permanent committee on Ethics

In the 4th session of the National Assembly of the 7th convocation no ad-hoc ethics committee was set up as in the previous sessions. Despite the occasions calling for its setup the parliamentary factions did not exercise their right to initiate the setup of an ad-hoc ethics committee provided by the NA Rules of Procedure . Interestingly, the longer the idleness of the factions lasts in this matter, the more frequent are the incidents in the parliament which contain attributes of violation of ethics rules and tend to get more aggressive, rough and larger-scale.

Over the 4th session 3 obvious cases of violation of ethics were noted which called for a review and conclusion by the committee.

On January 21, in the course of discussion of the legislative amendments proposing criminalization of the criminal subculture, the PAP deputy Gevorg Petrosyan took the floor and said, “Here is a hint for you: there is another 3-letter concept, would be good to fight that too.”

Deputy Arman Babajanyan called on the Prosperous Armenia faction to apologize for the conduct of Gevorg Petrosyan which led to an altercation between PAP deputies and Arman Babajanyan. Mutual blows were prevented owing to the intervention of other deputies. NA President Ararat Mirzoyan exercised the authority vested in the chairperson by the NA Rules of Procedure and removed 4 PAP deputies from the plenary hall.

Article 96 of the Constitution states, “a deputy may not, during his or her term of powers or thereafter, be prosecuted or held liable for an opinion expressed or voting within the framework of parliamentarian activities.” Also, Point 8 of Clause 2 of Article 3 of the law on the “Safeguards for the work of the NA deputy” states that it is an ethics rule to display respectful attitude towards the political opponents, participants of discussions on matters in the NA, journalists and all other persons who the deputy interacts with while carrying out their authority.

[6] Constitutional Law on the Rules of Procedure of the National Assembly, 16-րդ հոդված, 2-րդ մաս

The above-mentioned acts contain attributes of alleged violation of deputy ethics rules, which could be subjects of review by the Ethics committee, to make sure they did not occur again in the future and prompt deputies to be more circumspect.

Even though the NA President applied the disciplinary sanction provided in the NA Rules of Procedure as a measure to settle the situation this is a situational solution and does not have the same effect as the fact of review and conclusion by the committee would have in terms of impact and prevention.

The imposition of a disciplinary sanction is not directed at the creation of a culture of standards of deputies' conduct in the long run, but only seeks to restore the normal course of the sittings .

On April 29, 2020 in the course of discussion of the draft proposing amendments and additions to the law on the Budget the Bright Armenia faction had proposed giving out 100,000 drams to needy families. The NA vice-speaker Alen Simonyan had called this populism, to which BAP member Ani Samsonyan responded that Alen Simonyan is not taken seriously by his own team.

Alen Simonyan had responded, "Mrs. Samsonyan, I am married, I would suggest not talking about me a lot, it doesn't look good." The NA President had noted that he was going to respond to Edmon Marukyan hiding behind Ani Samsonyan and recalled some bits from 2018 correspondence. Then Edmon Marukyan was heard saying "hey, loser", Alen Simonyan responded "a political door mat" and Edmon Marukyan got back at him with "bastard".

This incident was a display of conduct unbecoming the status of the deputy, which appeared to lead to violations of rules of deputy ethics #6 (contribute to building of trust and respect towards the National Assembly through their work) and #7 (demonstrate conduct befitting a deputy at all times and while engaging in any activity).
Interestingly in this case the NA President did not apply a disciplinary measure.

Making this incident a subject of review by the Ethics committee would objectively draw the attention on the quality of deputies' speech, political debate in the parliament and level of mutual respect and tolerance.

[7] Constitutional Law on the Rules of Procedure of the National Assembly, Article 52, Parts 2 and 3
[8] Constitutional Law on the Rules of Procedure of the National Assembly, Article 52, Part 4

During the May 8th sitting My Step deputy Sasun Mikayelyan threatened BAP leader Edmon Marukyan from his seat when the latter was making a speech and later hit him when Edmon Marukyan stepped down and approached him. This incident was preceded by BAP leader's criticism directed at My Step deputy Babken Tunyan and followed by an unprecedented commotion, blows from both sides and a mass brawl involving faction members.

The break announced by the NA President lasted for several hours. After the break Edmon Marukyan announced that they were anticipating political consequences of the incident and the faction left the plenary hall.

The prime minister who was present in the hall along with the members of the cabinet commented on the incident noting that it was a provocation and the parliamentary majority did not have the right to surrender to it.

Political responses to the incident: The Bright Armenia deputies demanded that as a political consequence Sasun Mikayelyan, My Step faction deputies Artak Manukyan and Vahe Ghalumyan seen on the footage of the fight hitting Edmon Marukyan, put down their mandates. Sasun Mikayelyan announced from the NA floor that he would put down his mandate if Edmon Marukyan would do the same. My Step faction leader Lilit Makunts added, that the three deputies of the faction are willing to put down their mandates if Edmon Marukyan, Hrant Ayvazyan and Sargis Aleksanyan from BAP would do the same.

The Bright Armenia did not respond to the condition set by the political majority. Moreover, they returned to the plenary hall despite the fact that no expected political consequences were noted.

The legal treatment of the incident: None of the parliamentary factions or deputies applied to the law enforcement bodies regarding the incident. The Chief Prosecutor's Office on its own initiative forwarded the mass media publications regarding May 8 incident to the Special Investigative Service on May 11 in order to review them for apparent criminal acts in the scope of criminal proceedings and move forward. In the scope of preparation of materials Sasun Mikayelyan and Edmon Marukyan were also invited to the Special Investigative Service to provide explanations. On May 23 the Special Investigative Service officially confirmed that upon preparation of materials the investigator declined to prosecute due to lack of evidence.

Following the decision of the Special Investigative Service Edmon Marukyan announced that the criminal-legal qualifications should have been given not in the scope of Article 118 of the RA Criminal Code but in accordance with the Article 258 of the RA Criminal Code, that is hooliganism, suggesting that grounds existed for Clauses 2 and 3 of this Article, perhaps taking into account the fact that the incident involved a threat to commit violence against him. Interestingly, Edmon Marukyan (judging by his Facebook post) did not file a complaint with the Special Investigative Service regarding hooliganism either, which he later tried to explain with the fact that as per Part 1 of Article 183 of the Criminal Procedure Code the Article 118 of the Criminal Code covered private charges, and since they believed that the incident was outside the scope of private charges, that is why a complaint was not filed.

In that context the initiation of legitimate disciplinary proceedings was of utmost urgency since it would not allow this to pass without consequences altogether and would lower the probability for such situations to happen again.

Clauses 2 and 3 of Article 52 of the NA Rules of Procedure prescribe the effect of the disciplinary measures, which the chairperson can apply against the deputy, if the latter disrupts the normal course of the NA sitting or breaks the procedure of the sitting with specific actions.

The following disciplinary measures are applied:

- warning along with publishing the name,
- turning off the microphone,
- taking away the right to take the microphone during one sitting,
- removal from the sittings scheduled for the remaining part of the day and taking away the right to be present in the plenary hall during that time,
- on the days of the sittings of the National Assembly taking away the right to be present in the plenary hall of the National Assembly for up to seven days.

Clause 4 of the same law states that the disciplinary measure against the deputy shall be applied from mild to strict, as a rule, be proportionate to the gravity of the action and seek to ensure the normal course of the sitting. And the disciplinary measure under Clause 5 can be applied, if prior to that the disciplinary measure stated in Clause 4 was applied against the deputy and the deputy did not willingly comply.

It is evident from the formulations in the NA Rules of Procedure regarding the disciplinary measures above and the procedure for their application that they were prescribed with the logic of their application from mild to strict given a gradual development of a certain situation. But events in the parliament unfolded quickly on May 8 and during this time it was impossible to impose disciplinary measures in the same logic.

The other significant fact is that the disciplinary measures were set not for the purpose of imposing a penalty for a proved disciplinary violation, which implies an all-around review of the situation, the conduct and actions of the deputies involved in it, its causes and consequences, but only as a toolset to return the course of the sitting to normal in specific situations.

The May 8 incident provided more than sufficient grounds for the NA President to apply disciplinary measures against at least the instigators of the conflict or its immediate participants in breach of the rules, and against the deputies demonstrating more aggressive conduct already during the scuffle, right there on the spot. However this would raise questions whether the chairperson's decision was legitimate, objective or whether the measures chosen were consistent with the gravity of the action of each deputy. In case of disputes arising between specific deputies such questions are usually not given importance, but the incident of May 8 having a political lining would inevitably lead to such legitimate discussions.

Summary

Cases of violation of ethics taking place during the session, issues and questions arising from them allow us to draw several inferences:

- Such issues arise due to the fact that the law on the NA Rules of Procedure fails to cover the oversight mechanisms of ethical conduct and discipline of the deputies altogether, and the existing regulations are by and large of formal nature and offer only situational solitions.

- Judging by the frequency of incidents during the NA sittings the logic of imposition of disciplinary measures against the deputies in breach needs to be changed and legislative amendments shall be made to allow the application of these measures as substantiated disciplinary penalties and to include stricter measures.

- Imposition of disciplinary measures and penalties needs to be directly linked to a legal review of the actions of each deputy in breach through clear procedures of initiation of disciplinary proceedings. Without this factor any decision, approach and opinion can be perceived as subjective and politicized.

- Implementation of disciplinary proceeedings should be assigned to the NA Ethics committee operating on a permanent basis. For this purpose a radical revision of all legal regulations around the setup and operating procedure of the ethics committee is a matter of utmost urgency.

- The issue can be solved by removing the classification of the ethics committee as an ad-hoc one. This way the setup of the ethics committee will be driven not by the levers within the authority of the NA factions and its discretionary exercise, but based on the existence of grounds for initiation of disciplinary proceedings. In the previous 4 sessions of the parliament of the 7th convocation, the fact of not setting up an ethics committee despite the numerous occasions was dictated by the political expediency of the factions. They did not come up with the initiative to set up an ad-hoc ethics committee even when it called for assessment of specific situations and imposition of measures against the deputy in breach of the ethical, disciplinary rules.

- The correlation between the setup of the ad-hoc ethics committee and the political, subjective discretion of the faction has taken away the right of deputies, citizens or socio-political associations enjoyed in the past when they could file applications regarding the violation of ethical norms. This way, the public and civil segment is not able to ensure public oversight of the deputies' integrity and influence it.

- However, the setup of an Ethics committee operating on a permanent basis will become pointless if the frameworks aiming to raise the functional significance of the conclusion on violation of ethics are not put to work. Even in the sense of the Clause 5 of Article 17 of the law on the NA Rules of Procedure the conclusion generated as a result of the setup and operation of the committee is only posted on the NA official website without leading to disciplinary or any other penalty measures or even discussion in the NA. In this situation the rules of ethics for the deputy cannot have a significant effect on the deputies' conduct.

Parliamentary hearings: Practice and Trends

In the parliamentary government system the institution of parliamentary hearings is one of the most important platforms to ensure public participation in the legislative policy.
Under the constitutional law on the "Rules of Procedure of the National Assembly" the entities with the authority to hold parliamentary hearings are the NA President, standing and ad-hoc committees and parliamentary factions. The NA President has the authority to hold hearings with any agenda, while standing and ad-hoc committees only on a draft law or issues in the sectors in their purview. The factions can do so only in connection with a draft submitted by the faction or its deputy.

The Rules of Procedure of the National Assembly also partly regulate the frequency of initiation of hearings without setting any limitations for the NA President and committees and providing only one opportunity for the factions to hold a hearing during each regular session.

Under the NA Rules of Procedure the authority to set a procedure for summarizing the results of the hearings is given to the Operating Procedure. It allows the entities initiating hearings to prepare written materials on the topic of the hearing, recommendations, conclusions and letters as well as other materials summarizing the results of the hearing which can be published as proposed by the committee or faction upon consent of the president.

The law fails to not only set a mandatory requirement to publish materials summarizing the results of the hearings, but also specify the extent of the concept of "materials".

During the 4th session 6 parliamentary hearings were initiated: by the NA President, the PAP faction and 4 standing committees of the NA.

The topic of the hearing initiated by the NA President Ararat Mirzoyan was the performance report of the State Commission for Protection of Economic Competition for 2019.

4 NA standing committees held hearings to discuss the following topics:

- The standing committee on Science, Education, Culture, Diaspora, Youth and Sport to discuss legislative reforms in the areas of higher education and science,
- The standing committee on state and legal affairs to discuss the package of amendments to the Judicial Code,
- The standing committee on European Integration to discuss the implementation process of the RA-EU Comprehensive and Enhanced Partnership Agreement,
- The standing committee on Territorial Administration, Local Self-Government, Agriculture and Environment to discuss the proposed amendments to the law on Administrative territorial division of the Republic of Armenia.

The NA standing committee on the Protection of Human Rights and Public Affairs had planned to hold a parliamentary hearing entitled “The human rights protection issues in the area of social security” on April 13 which did not take place due to the convocation on the same day of a special sitting of the National Assembly by virtue of law.

Issues of road traffic became the topic of the hearing initiated by the Prosperous Armenia faction. This is the only instance of a faction holding a hearing not only in the 4th session but during the entire convocation altogether.
Over the session the NA Vice-President Vahe Enfiajyan submitted a draft of amendments to the law on the NA Rules of Procedure that would also allow the NA Vice-Presidents to hold hearings, as well as offer the factions the opportunity to hold two hearings in the course of one session. The draft was declined with the reasoning that the NA Rules of Procedure do not vest separate authority in the NA Vice-President. As for giving the factions the authority to organize one more hearing during the session, the counterargument was that none of the factions had exercised its authority to hold a single hearing over the three sessions.

Broken down by sessions the number of initiated hearings has increased: 4 of them in the 2nd session of the NA, 5 in the 3rd session and 6 parliamentary hearings in the 4th session. However given that the total number of entities that can hold hearings in the parliament is 15, this figure cannot be yet considered adequate, since for the time being the parliament is not tapping even 2/3 of the potential of public communication in the format of hearings.

Interestingly no written statements, proposals, conclusions, letters or materials summarizing results on any of the 6 hearings held during the session were published on the NA official website. Information on the hearings did not go beyond published press releases, record of the decision on holding hearings adopted in the sittings of the committees and the announcement on holding them. However, the primary goal of the hearings and their efficiency indicator is their impact which cannot be measured under current regulations.

A clear tendency to move beyond the formal regulations of the hearings and develop non-formal formats of communication was noted during the session.

During the session the NA standing committees held 17 working discussions around a wide range of sectoral issues and legislative initiatives.

The extraordinary sittings were also practiced by the NA standing committees as an alternative format for hearings.

Specifically, on May 4 the NA standing committee on Healthcare and Social Affairs convened an extraordinary sitting to discuss the measures mitigating the social and health consequences of the pandemic. The format of the extraordinary sitting was also used by the NA standing committee on Science, education, culture, diaspora, youth and sport putting up for a closed discussion the question of resignation of Smbat Gogyan, head of the Supreme Certifying Committee.
Over the 4th session due to pandemic-driven restrictions, the format of online public discussions was also used. Initiated by the NA working group on electoral reforms with the support of the International Foundation for Electoral Systems (IFES) an online discussion was held entitled “The digital tools of participatory democracy” attended by NA deputies, local and international experts.
Apart from the standing committees the Bright Armenia faction also used non-formal formats of communication with the public and professional circles (issues in the area of urban development regarding the regulation of the processes of licensing by the chamber of architects and urban development committee).

So for the purpose of raising the level of public engagement in lawmaking and oversight functions the parliament preferred the alternative format of non-formal meetings to the parliamentary hearings provided by the NA Rules of Procedure, since the former allowed for subject-based and efficient, lower-profile discussions.

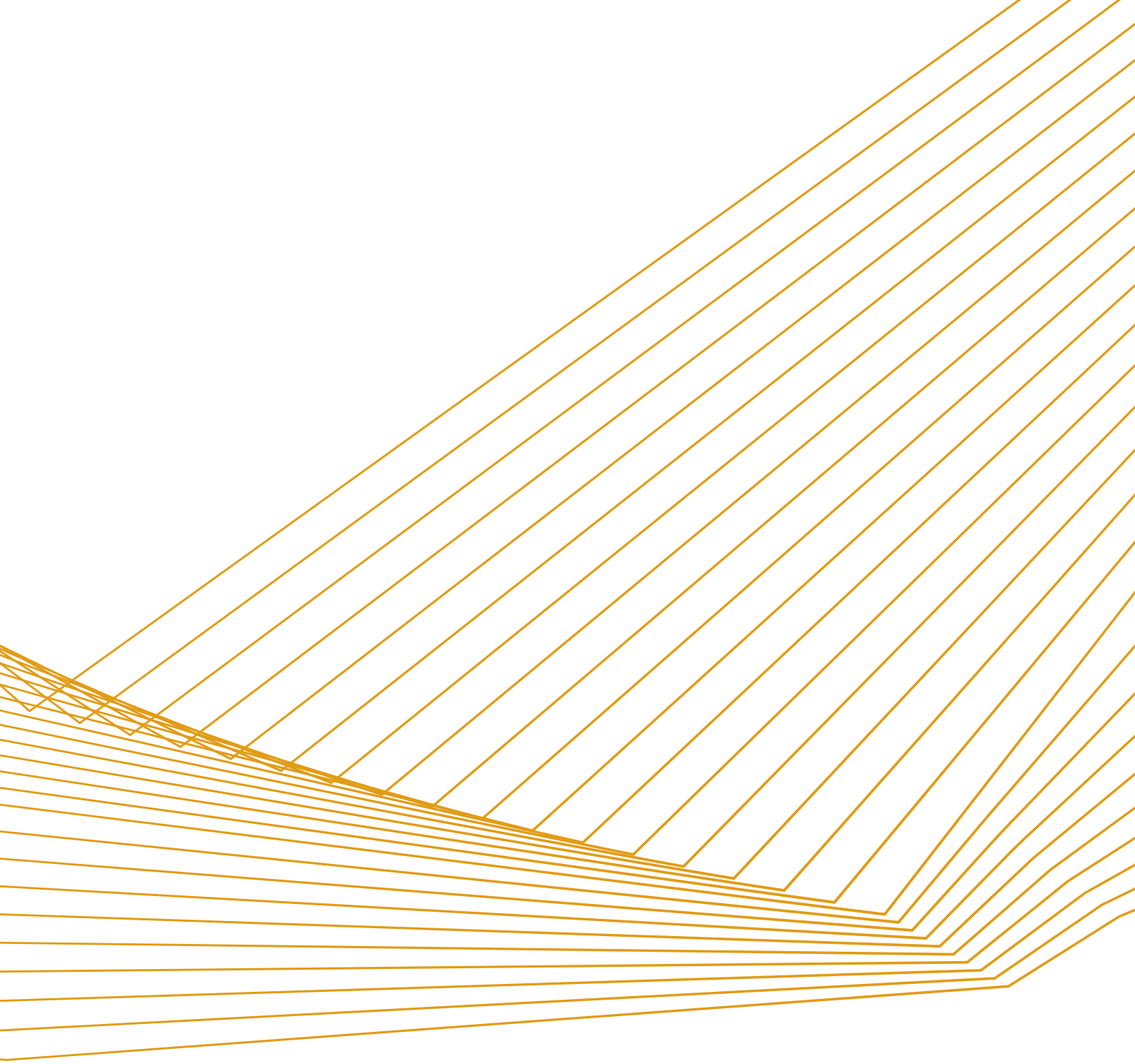
This trend is due to several key factors:

- The legislative regulations of the parliamentary hearings somewhat narrow the scope of topics of the hearings and limit the frequency making the initiation of hearings less preferable and necessitating more flexible legal regulations.

- When organizing hearings regulated under law it is important to fully adhere to the set procedures, for the inviting entity to adopt the corresponding decision, set the clear agenda and procedure, share information, work on an individual level with the participants and so on, which is a time and resource consuming process. At the same time, organization of small, not regimented, non-formal discussions is prompt and dynamic.

- Under the NA Rules of Procedure hearings cannot be initiated during regular four-day sittings, extraordinary sittings and sessions. This limitation denies the parliament the opportunity to respond to the urgent issues in the format of hearings.

  These factors objectively require expanding the concept of “hearings” in the NA Rules of Procedure to also include and regulate discussions in other formats. Such regulation is necessary in order to bring the status of alternative formats to that of a hearing as well as raise their efficiency.



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