

OPINION ON THE RULES OF PROCEDURE OF THE NATIONAL ASSEMBLY OF ARMENIA

ARMENIA

This Opinion has benefitted from contributions made by Ms. Alice Thomas, International Human Rights and Legal Expert, and Professor Alan Page, University of Dundee, United Kingdom.

Based on an unofficial English translation of the Law on the Rules of Procedure of the National Assembly of Armenia.



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EXECUTIVE SUMMARY AND KEY RECOMMENDATIONS

At the outset, it must be noted that the Rules of Procedure of the National Assembly of Armenia (hereinafter “Rules of Procedure”) and the Working Procedures of the National Assembly are comprehensive documents. The former has incorporated many of the recommendations made by ODIHR in the 2016 review of the Draft Rules of Procedure.¹ It aims at creating an efficient, transparent and transformative environment for functioning of the National Assembly.

At the same time, the Rules of Procedure, on occasion, appeared to be too detailed and tend to overregulate, leaving the room for improvement in order to attain a better balance of powers between the parliament and the executive. The Rules of Procedure could be further improved to guarantee a more prominent role for the National Assembly and its bodies in the law-making process and in carrying out its other core functions, namely an effective oversight and representative roles.

More specifically, and in addition to what is stated above, ODIHR makes the following key recommendations in order to enhance the Rules of Procedure and to ensure their full compliance of with international human rights and democratic governance standards and recommendations and OSCE human dimension commitments:

- A. to consider introducing a mechanism for regular review and proposing amendments to the Rules of Procedure; [para. 18]
- B. to ensure a gender and diversity perspective in the Rules of Procedure and Working Procedures, by including specific provisions:
 - 1. to ensure that gender balance requirement and diversity considerations are taken into account during the process of appointing the Chairperson of the National Assembly and his/her deputies, committee members and in the counting commission; [pars. 30 and 43]
 - 2. including a provision specifying that parliamentarians need to perform their duties without prejudices and shall not incite any kind of discrimination, harassment or violence based on national or ethnic origin, religion or belief, disability, sex, gender identity, political opinion or any other ground; [para. 25]
 - 3. clearly identifying in the Rules of Procedure the behaviours and acts amounting to sexual or other forms of harassment or violence against women that are prohibited towards both the other MPs and the parliamentary staff as well as the penalties and consequences for such breaches; [para. 26]
 - 4. providing in the Rules of Procedure or other policy documents of the National Assembly of Armenia, for an effective and independent complaints-handling mechanism, applicable both to MPs and parliamentary staff; [para. 26]

¹ See ODIHR, [Opinion on draft Sections I-III of the Rules of Procedure of the National Assembly of Armenia](#), 2 December 2016.

- C. to re-evaluate the strict deadlines that exist for ad hoc and inquiry committees; [para. 49]
- D. to reconsider and reorganize the division of authority between the executive and legislative branches throughout the law-making process with the aim of enhancing the independence of the National Assembly vis-à-vis the Government; [para. 73]
- E. to ensure that a regulatory impact assessment on how a bill will affect other pieces of legislation, also evaluating its potential gender, diversity, human rights and environmental impact, is introduced in the Rules of Procedure rather than the Work Procedures, while specifying what the consequences will be, should the Administration conclude that the draft is incompatible with other legislation; [paras. 77 and 83]
- F. to reflect in the Rules of Procedure that the application of urgent procedures for passing a law is an exception, based on specific and pre-determined criteria, while requiring government or other bodies with legislative initiative to justify the need for expeditious procedures; [para. 92]
- G. to reconsider the current approach with respect to the limitations on committee deliberations of draft laws that fall within the exclusive competence of the Government and to find a balance between the Government exclusive regulatory scope and the oversight role of the National Assembly; [para.104]
- H. to consider developing a more stringent system of ex post evaluation of adopted legislation at the committee level, and to supplement Article 122 of the Rules of Procedure accordingly. [para. 123]

As part of its mandate to assist OSCE participating States in implementing OSCE human dimension commitments, ODIHR reviews, upon request, draft and existing legislation to assess their compliance with international human rights standards and OSCE commitments and provides concrete recommendations for improvement.

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Annex 1: Rules of Procedure of the National Assembly of Armenia

Annex 2: Working Procedures of the National Assembly of Armenia

I. INTRODUCTION

1. On 12 September 2019, the Chair of the Standing Committee on State and Legal Affairs on behalf of the National Assembly of the Republic of Armenia invited the OSCE Office for Democratic Institutions and Human Rights (hereinafter "ODIHR") to prepare an up-to-date assessment of the law-making process in the Republic of Armenia. It also requested to review the Law on Regulatory Legal Acts and the Rules of Procedure of the National Assembly of Armenia (hereinafter "the Rules of Procedure").
2. On 27 September 2019, ODIHR responded to this request, confirming the Office's readiness to prepare, among other, the legal opinion on the compliance of the Rules of Procedure with international human rights and democratic governance standards and OSCE human dimension commitments.²
3. This Opinion was prepared in response to the above request. ODIHR conducted this assessment as part of its mandate to assist OSCE participating States in the implementation of key OSCE commitments in the human dimension.³
4. In 2016, ODIHR reviewed parts I-III and V of the then Draft Rules of Procedure and the Work Procedures of the National Assembly⁴. The present legal review concerns the Rules of Procedure adopted in 2016, as last amended on 26 October 2022.⁵ Detailed evaluation of issues related to norms of ethical behaviour of deputies (code of conduct/ethics), conflict of interest or anti-corruption measures, which are dealt by the respective parliamentary committees, is not a subject to current opinion. This may be assessed in a separate opinion if requested.

II. SCOPE OF REVIEW

5. This Opinion covers only parts I-III and V of the Rules of Procedure. Thus limited, it does not constitute a full and comprehensive review of the entire legal and institutional framework governing the work of the National Assembly of Armenia, or the legislative process in Armenia. It must be read together with ODIHR's Opinion on the Law on Regulatory Legal Acts of Armenia⁶ as well as the upcoming assessment report of the legislative process of Armenia.⁷
6. The Opinion raises key issues and provides indications of areas of concern. In the interest of conciseness, it focuses more on areas that require amendments or improvements than on the positive aspects of the Rules of Procedure. The ensuing recommendations are based on international standards, norms and parliamentary and constitutional practices as well as relevant OSCE human dimension commitments. The Opinion also highlights, as appropriate, good practices from other OSCE participating States in this field. When

² CSCE/OSCE, [Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE](#), 3 October 1991, para. 18.1.

³ Especially, CSCE/OSCE, [Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE](#), 3 October 1991, para. 18.1, which requires legislation to be adopted "as the result of an open process reflecting the will of the people, either directly or through their elected representatives". OSCE participating States have also committed to ensure that legislation will be "adopted at the end of a public procedure, and [that] regulations will be published, that being the condition for their applicability" ([1990 Copenhagen Document](#), para. 5.8).

⁴ [OSCE/ODIHR Opinion on draft Sections I-III of the Rules of Procedure of the National Assembly of Armenia, 2 December 2016](#).

⁵ See <<http://www.parliament.am/legislation.php?sel=show&ID=5711>>.

⁶ Upcoming, that will be available at <https://legislationline.org/legal-reviews?q=lang%3Aen%2Csort%3Apublication_date%2Ccountry%3A3%2Cpage%3A1%2Ctype_main%3A44>.

⁷ The report will be available at <<https://legislationline.org/assessments>>.

referring to national legislation, ODIHR does not advocate for any specific country model; it rather focuses on providing clear information about applicable international standards, while illustrating how they are implemented in practice in certain national laws. Any country example should always be approached with caution, since it cannot necessarily be replicated in another country and has always to be considered in light of the broader national institutional and legal framework, as well as country context and political culture.

7. Moreover, in accordance with the Convention on the Elimination of All Forms of Discrimination against Women⁸ (hereinafter “CEDAW”) and the 2004 OSCE Action Plan for the Promotion of Gender Equality⁹ and commitments to mainstream gender into OSCE activities, programmes and projects, the Opinion integrates, as appropriate, a gender and diversity¹⁰ perspective.
8. This Opinion is based on an unofficial English translation of the Rules of Procedure as amended and the Work Procedures of the National Assembly (hereinafter “Work Procedures”) commissioned by ODIHR, which is annexed to this document. Errors from translation may result. The Opinion is also available in Armenian. In case of discrepancies, the English version shall prevail.
9. In view of the above, ODIHR would like to make mention that this Opinion does not prevent ODIHR from formulating additional written or oral recommendations or comments on respective legal acts or related legislation pertaining to the legal and institutional framework regulating the National Assembly or the legislative process in Armenia in the future.

III. ANALYSIS

1. RELEVANT INTERNATIONAL AND REGIONAL STANDARDS AND OSCE COMMITMENTS

10. As noted, the Opinion has been prepared in light of international human rights and democratic governance standards and recommendations as well as OSCE human dimension commitments. It is therefore worth recalling that UN Human Rights Committee in its General Comment No. 25 (1996) noted that the right to participate in public affairs, voting rights and the right of equal access to public service as reflected in Article 25 of the International Covenant on Civil and Political Rights (ICCPR)¹¹ requires that “[c]itizens also take part in the conduct of public affairs by exerting influence through public debate”.¹² The OSCE commitments require legislation to be adopted “as the result of an open process reflecting the will of the people, either directly or through their elected representatives” and that legislation is “adopted at the end of a public

⁸ See the UN Convention on the Elimination of All Forms of Discrimination against Women (hereinafter “CEDAW”), adopted by General Assembly resolution 34/180 on 18 December 1979. The Republic of Armenia acceded to the Convention on 13 September 1993.

⁹ See the *OSCE Action Plan for the Promotion of Gender Equality*, adopted by Decision No. 14/04, MC.DEC/14/04 (2004), para. 32.

¹⁰ For the purpose of this Opinion, a guiding definition of “diversity” encompasses both “workplace diversity” (i.e., fair representation in the Assembly bodies and staff of the different groups of society within a setting that recognizes, respects and reasonably accommodates differences, thereby promoting full realization of the potential of all its members and employees) as well as respect for and promotion of diversity in its procedures and practices, and in the outcomes of the Assembly’s work. This does not preclude other diversity considerations, as contextually appropriate and possible, to be taken into account by the Assembly when reforming its working environment and work procedures, and more generally when performing all its functions.

¹¹ UN International Covenant on Civil and Political Rights (hereinafter “ICCPR”), adopted by the UN General Assembly by resolution 2200A (XXI) of 16 December 1966. The Republic of Armenia acceded to the ICCPR on 23 June 1993.

¹² UN Human Rights Committee, *General Comment No. 25*, 1996, para. 8.

procedure".¹³ Further, the rule of law checklist adopted by the Venice Commission provides that the process for enacting laws should be transparent, accountable, inclusive and democratic.¹⁴

11. OSCE participating States also specifically committed to ensure equal opportunity for the participation of women in political and public life, respect for the right of persons belonging to national minorities to effective participation in public affairs, to take special measures to enhance the participation of Roma and Sinti, especially of Roma and Sinti women, in public and political life and to "*take steps to ensure the equal opportunity of [persons with disabilities] to participate fully in the life of their society [and] to promote the appropriate participation of such persons in decision-making in fields concerning them*". The *Ljubljana Guidelines on Integration of Diverse Societies* (2012) of the OSCE High Commissioner on National Minorities (HCNM) note that "[d]iversity is a feature of all contemporary societies and of the groups that comprise them" and recommend that the legislative and policy framework should allow for the recognition that individual identities may be multiple, multi-layered, contextual and dynamic. A number of documents of a non-binding nature elaborated in various international and regional *fora* are useful as they provide more practical guidance and examples of practices to enhance the gender- and diversity-sensitiveness of the National Assembly of Armenia,¹⁵ such as for example, the Inter-Parliamentary Union (IPU) 2017 Plan of Action for Gender-sensitive Parliaments.¹⁶

2. BACKGROUND AND GENERAL COMMENTS

12. The current Rules of Procedure of the National Assembly of Armenia were passed in 2016, following the adoption in 2015, by referendum, of a new Constitution,¹⁷ which replaced the semi-presidential system of government with a parliamentary system in which the Government must have the support of a majority in the National Assembly. They have been amended twenty-one times as of the time of drafting this Opinion.¹⁸
13. The Rules of Procedure are supplemented by the Work Procedures of the National Assembly (hereinafter "Work Procedures"), which regulate in more detail various aspects of the work of the National Assembly. The current Work Procedures were approved by a decision of the National Assembly in 2016 and have been amended once on 12 April 2018.¹⁹
14. As the 'representative body of the people', the National Assembly is responsible under the 2015 Constitution for exercising legislative power, ensuring scrutiny and supervision over the executive power, and the adoption of the state budget (Article 88). It is also

13 OSCE, Moscow Document of 1991, par 18.1 and CSCE Copenhagen Document.

14 European Commission for Democracy through Law of the Council of Europe (Venice Commission), *Rule of Law Checklist* (2016), p. 22. (under section A, chapter 6).

15 See for example ODIHR, *Guidelines on Promoting the Political Participation of Persons with Disabilities*, 2019, including a checklist with further detailed guidance on pp. 110-117; Inter-Parliamentary Union (IPU), *Parliament and Democracy in the Twenty-First Century: a Guide to Good Practice*, 2006; IPU and UNDP, *Diversity In Parliament: Listening To The Voices Of Minorities And Indigenous Peoples*, 2010. See for further reading, e.g., regarding the diversity-sensitiveness of the UK House of Commons, Professor Sarah Childs, *Report – The Good Parliament* (2015). See also, IPU, *Plan of Action for Gender-sensitive Parliaments* (2012 & 2017).

16 IPU, *Plan of Action for Gender-sensitive Parliaments* (2012), pp. 8-9, which defines a gender-sensitive parliament as "... a parliament that responds to the needs and interests of both men and women in its composition, structures, operations, methods and work. Gender-sensitive parliaments remove the barriers to women's full participation and offer a positive example or model to society at large. They ensure that their operations and resources are used effectively towards promoting gender equality. [...] A gender-sensitive parliament is therefore a modern parliament; one that addresses and reflects the equality demands of a modern society. Ultimately, it is a parliament that is more efficient, effective and legitimate".

17 See <<http://www.parliament.am/parliament.php?id=constitution&lang=arm>>.

18 See <<http://www.parliament.am/legislation.php?sel=show&ID=5711>>, with the latest amendments at the time of finalizing the Opinion dated 26 October 2022.

19 See <<http://www.parliament.am/legislation.php?sel=show&ID=5744&lang=arm#25.128>>.

responsible for the election of the President (Article 125 of the Constitution), the Prime Minister (Article 149) and for electing a wide range of other officeholders including the judges of the Constitutional Court (Article 166 of the Constitution).

15. The Rules of Procedure of the Armenian National Assembly are referred to as a “constitutional law”, which, according to Article 5 of the Constitution, has a higher status than all other laws. Article 103(2) of the Constitution specifies that constitutional laws, including the Rules of Procedure, are passed by a three-fifths’ majority of all deputies of the National Assembly.
16. The practice as to the legal source in which parliamentary Rules of Procedure are embedded varies from country to country.²⁰ As stated in the 2016 ODIHR Opinion on (then) Draft Rules of Procedure of the National Assembly of Armenia (hereinafter “the 2016 Opinion”),²¹ this has positive and negative consequences – while this legal status of the Rules of Procedure ensures their implementation, it allegedly means that in principle, it should be quite difficult to amend or adapt certain provisions to ensure the smooth running of parliamentary sessions and sittings. However, since their adoption in 2016, they have been amended twenty-one times, which shows that in practice, such amendments are possible and widely used.
17. The potential lack of flexibility in amending the Rules of Procedure due to its constitutional law status may explain why some key aspects related to National Assembly bodies and procedures were initially set out in the Work Procedures, adopted by the National Assembly, and not in the Rules of Procedure (see para. 13 *supra* and para. 77 *infra*). At the same time, paradoxically, the Work Procedures, although supposedly easier to amend, have been changed only once since 2016. Depending on the evolving context, and in order not to unduly block the possibility to amend the Rules of Procedure, should there be a need to do so in the future, it may be useful to initiate a debate within the National Assembly as to whether it may potentially be useful to introduce a simple majority for certain provisions in the Rules of Procedure, to ensure greater flexibility on issues that can be defined as minor or that practice in parliamentary process has shown to be needful.
18. **It is further noted that there appears to be no explicit mechanism by way of committee or otherwise for keeping the Rules of Procedure under regular review and proposing amendments. This should be addressed, so that needs for amending certain parts of the Rules of Procedure can be flagged at an early stage, and also combined so as to reduce the frequency of amending the Rules of Procedure.**²²

RECOMMENDATION A.

To consider introducing a mechanism for regular review and proposing amendments to the Rules of Procedure. .

20 In some states, parliaments have the power to adopt their own rules of procedure by resolution. This practice is followed in participating States such as the **United Kingdom, Germany, Canada** and **Malta**, to name a few. The Rules of Procedure of the Parliament in **Poland** lie somewhere between the Constitution and ordinary law, in the hierarchy of legal norms. **In Italy**, the Constitution specifies that, with reference to the principles that it enshrines, the Parliamentary Rules of Procedure (of the Chamber of Deputies and the Senate) will dictate the manner in which the two Houses of Parliament conduct their business, define parliamentary bodies and procedures, determine internal organisation; the Rules of Procedure of the Chamber and the Senate are separate and independent texts that each House enforces and amends independently.

21 See [ODIHR Opinion on draft Sections I-III of the Rules of Procedure of the National Assembly of Armenia](#), of 2 December 2016, paras. 15-17.

22 For instance, in **Italy**, the Rules of Procedure allows for the amendment of the Rules of Procedure through a committee; the Rule 16 provides for a Committee on the Rules of Procedure and puts it in charge of submitting to the Chamber of Deputies proposals for rule changes that experience has shown to be needful. The Rules and amendments require a favourable vote of an absolute majority of the Parliament.

3. BODIES OF THE NATIONAL ASSEMBLY

19. Section 2 of the Rules of Procedure contains general provisions outlining the rights and roles of deputies, the chairpersons and vice-chairpersons of the Assembly, as well as parliamentary committees, factions and the Council of the National Assembly.

3.1. Deputies

20. Article 3 outlines the rights of deputies, which include, in paragraph 1(4) and (5), the right to pose written questions to the Government and the right to pose oral questions to bodies of the Government. It is positive that according to Article 119(3), the Government's responses shall be posted on the National Assembly's website (presumably along with the questions, though this is not specified).
21. At the same time, Article 119(3) states that the procedures for sending questions and receiving responses shall be established in the Work Procedures. While Section II of the Work Procedures outlines the procedure for posing questions to the Government orally, and Section XVII deals with written interpellations of factions to the Government, there appears to be no specific provisions in the Work Procedures for deputies to send written questions to the Government. **It is recommended to supplement the Work Procedures accordingly, either by adding a separate section, or by including references to existing sections, e.g. Section XVII.**
22. Additionally, Article 3(1)(11) states that deputies may "*address inquiries and proposals to the state and local self-government institutions and public officials*". It is assumed that this provision is meant to cover state institutions that are not the Government (as questions to Government are covered by paragraph 1(4) and (5)), but perhaps this could be specified. The time limits and procedures to follow in these cases are presumably similar to those set out in Article 119 for written questions to the Government, but it would be good if this could be made more explicit in the Rules of Procedure. Generally, the options whereby deputies may seek information from heads of state bodies and agencies such as the Police, National Security Service and State Revenue Committee should be reviewed and clarified. Generally, **these bodies and agencies do not report to ministries and are entities separate from the Government,²³ but parliamentary oversight over them should also be ensured, either via Article 3(1)(11) or in some other manner.**
23. The obligations of deputies are set out in Article 4 of the Rules of Procedure. Aside from the requirements obliging each deputy to adhere to the rules of ethics for deputies (paragraph 1(4)) and to ensure the implementation of incompatibility requirements (paragraph 1(5)), this provision does not impose any form of transparency/disclosure requirements on deputies, nor does it include certain anti-corruption provisions, e.g., disclosure requirements or limits with respect to the receipt of gifts or favours, or the like, nor a reference to a separate document, such as a code of conduct/ethics,²⁴ in which such issues could be comprehensively regulated. While some of these matters are set out in other legislation concerning income and asset declarations and anti-corruption efforts, or activities of deputies in general, **it is recommended to include references to the**

23 According to Article 147 of the Constitution, the Government shall be composed of the Prime Minister, Deputy Prime Ministers and ministers.

24 See in this respect recommendations made by Council of Europe Group of States against Corruption (GRECO), <<https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680993e83>>.

relevant legislation in Article 4. It should also be mentioned that this opinion does not intend to address issues related to a code of conduct/ethics, conflict of interest or anti-corruption measures, which can be subject to a separate opinion.

24. Article 16 implies that issues pertaining to parliamentary ethics shall be debated by an *ad hoc* committee established for this purpose, which shall, upon having examined the respective case, submit its findings to the National Assembly (Article 17(1)(2)). The findings of this committee will not be debated but will rather be posted on the official website of the National Assembly. It is unclear whether the publication of such findings will have any other form of consequences for the respective deputy. The Rules of Procedure are also not very specific with respect to possible consequences of breaches of the rules of ethics.²⁵ **Therefore the consequences of breaches of rules of ethics should be specified in relevant provisions of the Rules of Procedure.**
25. In addition, the Rules of Procedure lack a clear anti-discrimination statement, from the part of the deputies and more generally, and should be supplemented in this respect, for instance by **including a provision specifying that parliamentarians need to perform their duties without prejudices and shall not incite any kind of discrimination, harassment or violence based on national or ethnic origin, religion or belief, disability, sex, gender identity, political opinion or any other ground.**
26. In the same vein, in light of various studies suggesting that the overwhelming majority of women in parliaments has been subjected to violence (psychological or physical),²⁶ there is a need that parliamentary rules address sexual or other forms of harassment or violence against women in politics, making parliaments a safe place for women to work. It is therefore recommended to supplement the Rules of Procedure in this respect, **clearly identifying the behaviours and acts amounting to sexual or other forms of harassment or violence against women that are prohibited towards both the other MPs and the parliamentary staff as well as the penalties and consequences for such breaches.**²⁷ It is also key that applicable legislation, Rules of Procedure or other policy of the National Assembly of Armenia **provides for an effective and independent complaints-handling mechanism, applicable both to MPs and parliamentary staff, that is confidential, responsive to the complainants, fair to all parties, based on a thorough, impartial and comprehensive investigation and timely.**²⁸
27. The Rules of Procedure could also include as a responsibility the National Assembly's leaders or Chief of Staff the development of policies or measures for a better alignment of work-life balance, including family-friendly and flexible working hours and related entitlements (such as shared parental leave or obligatory parental leave for fathers, or other family leave) for Assembly members and parliamentary staff.²⁹

3.2. The Chairperson and Vice-Chairpersons of the National Assembly

28. Chapter 3 of the Rules of Procedure deals with the Chairperson of the Assembly and his/her deputies. It is noted that while Articles 5 and 6 describe the roles and duties of the

25 With respect to the importance of an enforceable set of rules of ethics, reference is made to the Parliament of Georgia where a non-binding code of ethics had been adopted, but not effectively implemented as a result of which the document had gone unused. See <<https://www.osce.org/files/f/documents/7/7/98924.pdf>>, p. 75.

26 For example, a survey conducted by the Inter-Parliamentary Union (IPU) suggests that 85.2 per cent of the women parliamentarians had suffered psychological violence in the course of their parliamentary term of office, and 67.9 per cent has been confronted with sexist or sexual remarks on multiple occasions over the course of their terms. See IPU, *"Sexism, harassment and violence against women in parliaments in Europe"*, 2018.

27 ODIHR, *Comments on the Law on the Assembly and Rules of Procedure of the Assembly of Northern Macedonia* (2020), para. 66; and pages 37-38 of 2019 *IPU Guidelines for the elimination of sexism, harassment and violence against women in parliament*.

28 *Ibid.* ODIHR, *Comments on the Law on the Assembly and Rules of Procedure of the Assembly of Northern Macedonia* (2020), para. 66; and pages 42-43 (2019 *IPU Guidelines*).

29 *Ibid.* ODIHR Comments, paras. 59-60.

Chairperson and deputies, the manner in which they are appointed is only mentioned much later, in Section 6 on Issues of Election, Appointment to an Office, Discontinuation, Termination, Calling Back, Expressing of No-Confidence and Dismissal from Posts of Officials. This section covers all types of appointments, both to Assembly posts, and to posts in the executive and judiciary.

29. **In order to have all information on specific National Assembly positions, such as Chairpersons, Deputy Chairpersons, Chairpersons of Committees in one place, consideration may be given to moving information on the appointment to these positions to the respective chapters where these positions are first introduced.** In the case of the Chairperson and deputies, this would be Chapter 3. To clarify the contents of Section 6, the title could be changed to refer to the election, appointment, discontinuation, termination, calling back, expressing of no confidence and dismissal of members of the executive and of the judiciary.
30. It would also be advisable **to amend the wording of Articles 136 and 137 for example through integrating a gender equality requirement in the respective provisions or refer to a non-discrimination law or obligation reflected elsewhere in the rules.** This could include specific provisions stating that when the candidates are nominated, persons from gender minorities, and members with disabilities and members of other under-represented groups should be given special consideration, so that **a certain balance between men and women, and an appropriate representation of diverse groups, is ensured also during the process of appointing the Chairperson of the National Assembly and his/her deputies.**
31. Under Article 5(2)(13) of the Rules of Procedure as amended in 2020, the Chairperson is responsible for, among others, appointing and removing the Chief of Staff of the Assembly and his/her deputies. As already stated in the 2016 Opinion,³⁰ these competences appear to give the Chairperson sole discretion in such matters, which should ideally be subjected to some sort of institutional parliamentary review. While it is possible that such review already exists, e.g. via the Council, **the Rules of Procedure should specify its extent, and the manner in which it is exercised.**
32. Finally, it is reiterated that, as already raised in the 2016 Opinion,³¹ neither this provision, nor other Articles of the Rules of Procedure contain a duty of the Chairperson, or of the National Assembly Council **to certify the accuracy of final legislative texts as enacted by the National Assembly. This should be introduced somewhere in the Rules of Procedure.**

RECOMMENDATION B.

To ensure a gender and diversity perspective in the Rules of Procedure and Working Procedures, by including specific provisions:

- to ensure that gender balance requirement and diversity considerations are taken into account during the process of appointing the Chairperson of the National Assembly and his/her deputies, committee members and in the counting commission;
- including a provision specifying that parliamentarians need to perform their duties without prejudices and shall not incite any kind of discrimination, harassment or violence based on national or ethnic

³⁰ See ODIHR *Opinion on draft Sections I-III of the Rules of Procedure of the National Assembly of Armenia*, 2 December 2016, para. 29.

³¹ *Ibid.* 2016 ODIHR Opinion, para. 28.

origin, religion or belief, disability, sex, gender identity, political opinion or any other ground;

- clearly identifying in the Rules of Procedure the behaviours and acts amounting to sexual or other forms of harassment or violence against women that are prohibited towards both the other MPs and the parliamentary staff as well as the penalties and consequences for such breaches;
- providing in the Rules of Procedure or other policy documents of the National Assembly of Armenia, for an effective and independent complaints-handling mechanism, applicable both to MPs and parliamentary staff.

3.3. Factions

33. Parliamentary factions are regulated in Chapter 4 of the Rules of Procedure. Article 7 states that factions shall be established on the opening day of the first session of the newly elected National Assembly. **As recommended in the 2016 Opinion,³² this provision should also specify whether, due to shifting alliances, or the dissolution of political parties or factions, it is possible to create new factions, at a later stage.**
34. Article 7(3) and (4) further elaborates that a faction formed by parties or by party alliances shall be considered the ruling faction if it received at least 52% of the total number of mandates of the National Assembly, and if the faction signed a memorandum on the forming of the Government. Should the head of the ruling faction, at a sitting of the National Assembly, declare that the faction is “quitting the memorandum regarding to the formation of the government”, the faction will from that moment onwards be considered to be in the opposition (Article 7(6)).
35. This provision raises questions, including whether a statement made by the head of a faction outside of a National Assembly sitting would still be equally valid. Additionally, it is unclear what would happen if a faction that withdraws from the Government would then cause the hitherto majority faction to lose the required 52% majority that it needs in order to be considered the ruling faction. **It may be helpful to review this part of Article 7, and to add the consequences of the actions described in Article 7, with appropriate references to relevant articles of the Constitution (as needed), and other pertinent legislation.**
36. It is welcome that, based on Article 8(4) of the Rules of Procedure, opposition factions shall have guaranteed functions as established in the Rules of Procedure. Such guarantees can be found in Article 24(1)(1) for the appointment of chairpersons and deputies of inquiry committees, in Articles 38(3)(11) and 96, regarding issues considered extraordinary by opposition factions, which are subject to mandatory consideration, in Article 58(3), stating that during an exchange of opinions, opinions of majority and opposition factions shall alternate and Article 137(3) which implies that that one of the deputy speakers of the National Assembly will be from an opposition faction.
37. Another important element of the said guarantees is the opposition factions’ right to propose a candidate for deputy chairperson of standing committees, as provided by Article 138 (elections of chairpersons and deputy chairpersons of standing committees),

³² *Ibid.* 2016 ODIHR Opinion, para. 33.

as amended on 12 April 2022. A new sub-provision was also added to Article 138, stating: “11.1. If the deputy chairperson of a standing committee is not elected, the competent faction shall nominate a new candidate within five working days after the vote.” If the candidate is not elected “within the time-limit” and “in accordance with” the provisions set by the Rules of Procedure, then the right to nominate goes to the faction with the largest representation (Article 138(12) as amended on 12 April 2022). As a result of the above amendments, there might be a risk that the ruling faction will nominate its own candidate, following a lack of consensus for the opposition’s candidate to be elected as deputy chairperson.

38. Additionally, amendments made to the Rules of Procedure in 2019 also grant opposition factions the right to nominate candidates for vacant positions in autonomous bodies (Article 146(2)). Such provisions help ensure the independence and oversight capacities of the National Assembly.³³
39. Article 9 outlines the activity of factions, and also, in paragraph 4, states that deputies may officially leave factions. **It would be good to clarify in the Rules of Procedure what would happen if, in cases where the majority factions have only a small majority compared to the opposition factions or where a large number of deputies decide to leave the majority faction, this jeopardizes their status as a majority faction, and the consequences that this would bring.**
40. Moreover, as also pointed out in the 2016 Opinion, it is not clear whether deputies that leave a faction may then join other factions, or whether they may then continue their work as independent deputies who do not belong to any faction. **The Rules of Procedure should provide some information on whether deputies may join other factions or work as independent deputies, taking into account that restrictions on changing party affiliation or to continue as an independent deputy should not be overly restrictive**³⁴ In any case, the expulsion of an MP from his/her parliamentary faction should not result in the loss of the parliamentary mandate, even though such a practice exists in some states.³⁵ The legislation or other document should also specify what happens to the funds received on behalf of the respective parliamentary group.³⁶
41. Finally, Article 9(5) states that the activities of a faction are terminated once all members leave the faction, but may be resumed if at least one deputy, competent to do so, becomes a member. **As stated in the 2016 Opinion, it is difficult to see how factions, as alliances between parties, could consist of one deputy only, and how this could work in practice. It would be advisable to review the respective provision and specify these details accordingly.**

3.4. Parliamentary Committees

42. Parliamentary committees are regulated in Chapters 5 (standing committees), 6 (ad hoc committees) and 7 (inquiry committees).
43. At the outset, it is noted that while it is positive that the Rules of Procedure (in particular Articles 11, 16, and 20) seek to reflect the different factions proportionately when regulating how committees shall be composed, there is, as also noted in the 2016 Opinion,³⁷ no apparent regard for gender and diversity considerations. Committees

33 See e.g., ODIHR-Venice Commission, [Guidelines on Political Party Regulation](#), 2nd Edition, 14 December 2020, paras. 125 and 127-128.

34 ODIHR-Venice Commission, [Guidelines on Political Party Regulation](#), 2nd Edition, 14 December 2020.

35 *Ibid.* [Guidelines on Political Party Regulation](#), para. 131.

36 *Ibid.* [Guidelines on Political Party Regulation](#), para. 131.

37 See ODIHR Opinion on draft Sections I-III of the Rules of Procedure of the National Assembly of Armenia, of 2 December 2016, para. 42.

should not only reflect the plurality of political parties represented in the National Assembly, but should also be composed of, as far as possible, a balanced number of men and women, and contain an adequate representation of existing minority groups throughout. It is recommended **to instil into the procedures whereby committees are composed, and their chairpersons and deputies appointed, some mechanisms to ensure appropriate gender balance requirements and representation of underrepresented groups.** To ensure the effectiveness of gender and diversity requirements that may be introduced in the Rules of Procedure, it is necessary **to provide for the consequences of non-compliance.**³⁸ For instance, where a clear requirement is made to reflect a gender balance or promote diversity in the relevant legislation, a proposed list that does not reflect a gender balance could be referred back for revision by the relevant parliamentary group.³⁹ **The Rules of Procedure should be supplemented in this respect.**

44. As far as standing committees are concerned, it is welcome that the Rules of Procedure now specify certain points that were raised in the 2016 Opinion,⁴⁰ e.g. whether deputies may remain in committees after having left their factions, or whether chairpersons, deputy chairpersons and faction leaders may join committees.
45. In addition to standing committees, regulated in Articles 11-15, the Rules of Procedure (reflecting Article 107 of the Constitution) also foresee the establishment of *ad hoc* committees and inquiry committees. Based on Article 16(1), *ad hoc* committees shall deal with the “*debate of separate laws, decisions of the National Assembly, statements and draft messages, as well as issues related to parliamentary ethics*”. Inquiry committees, on the other hand, are established at the request of at least one-fourth of the total number of deputies for the purpose of “*clarifying facts about issues falling under the jurisdiction of the National Assembly and those of public interest*” (Article 20(1)).
46. One special feature of both types of committees is that from the start, the Rules of Procedure, in particular Articles 16(6) and (7), and Article 20(7), specify that the work of these committees shall be time-bound, meaning that the work of the committees may take up to six months, extendable, though in the case of parliamentary ethics committees, this time period is only two months, extendable by one month.
47. While in the case of general *ad hoc* committees, this period may be extended for as long as the committee requires (based on the proposal of the committee and a resolution of the National Assembly), parliamentary ethics committees may only ask for an extension of one month. In the case of inquiry committees, the six-months term of office may be extended twice for up to six months, as per 2022 amendments, after which, the powers of the committee shall be terminated. It is welcome that the recent amendments now allow for two extensions of up to six months, instead of only one.
48. While it is understandable that temporary committees exist only for a limited amount of time, these committees may well require more than six months to investigate or debate complex matters properly. In particular, it is not apparent why *ad hoc* committees may ask for an unlimited extension, while the work of parliamentary ethics committees and of inquiry committees, which undoubtedly perform equally important tasks, is limited to a maximum of three months and one year and a half respectively. Indeed, simply ending

38 See e.g., ODIHR, [Comments on the Law on the Assembly and the Rules of Procedure of the Assembly from a Gender and Diversity Perspective](#) (2019), para. 45.

39 Ibid. See also e.g., ODIHR, [Opinion on Draft Amendments to Ensure Equal Rights and Opportunities for Women and Men in Political Appointments in Ukraine](#) (2013), paras. 32-35. See e.g., the French *Law n° 2014-873 of 4 August 2014 for real equality between women and men*, Articles 66 and 75, which provide that said appointments shall be annulled if gender balance is not respected (except for appointments of members from the under-represented gender), though this will not render null and void the decisions that may have already been adopted by said body in the meantime.

40 See ODIHR Opinion on draft Sections I-III of the Rules of Procedure of the National Assembly of Armenia, 2 December 2016, paras. 41 and 43.

the powers of such committees once the relevant time periods are up would likely thwart in-depth examinations of inquiries, as they would either force the respective committees to accelerate their work to avoid termination (which may then not be as thorough as needed) or would put an end to important investigations. While it is understandable that consideration of an individual case deputies' ethical behaviour should be clearly circumscribed in time, there might be a need to extend the work of the committee beyond the three month time limit, while at the same time ensuring that such a possibility is not abused to delay proceedings.

49. It is therefore recommended **to re-evaluate this approach, and to revise these strict deadlines for temporary committees**. Alternatively, the Rules of Procedure could foresee some sort of reporting system that would help the National Assembly plenary assess the effectiveness and efficiency of such committees and terminate their work in case this cannot be demonstrated adequately. The Rules of Procedure could also allow all temporary committees, including parliamentary ethics committees and inquiry committees, to ask for further extension of their work, if this is required for implementation of their mandates.⁴¹ To enhance the effectiveness of parliamentary ethics committees, consideration could also be given to a proposal made in a report issued by the Westminster Foundation for Democracy, which would be to establish a permanent ethics committee before every long parliamentary session (semi-annual basis), supported by staff reporting to the Chairperson of the National Assembly.⁴²
50. With respect to inquiry committees in particular, it is noted that according to Article 20(2), inquiries in the areas of defence and security shall not be undertaken by a specially established inquiry committee, but rather by the competent standing committee of the National Assembly, at the request of at least one-third of the total number of deputies. While it is understandable that this regulation may wish to retain the confidentiality of this standing committee's work, such provision may in practice somewhat hinder the effective conduct of the inquiry, given that the work and performance of the said standing committee, or of officials that the committee is used to collaborating with very closely, may well be the subject of an inquiry. **For this reason, it would be advisable to re-evaluate the approach taken with respect to inquiries into issues that fall into areas of defence and security and ensure that, at least in these types of cases, it is also possible to establish an independent inquiry committee** (as also recommended in the 2016 Opinion).⁴³
51. Article 22 sets out the rights and duties of persons invited to appear before the inquiry committee. While paragraph 1 outlines the rights and duties of officials, paragraph 1(1) specifies that such duties shall continue to exist even after they have left their official positions, if the invitation to attend was received before the respective official left his/her position. This raises the question of what should happen if such an invitation is received after the official has left, and whether in this case, that would mean that such summons would be invalid, and/or the official would then not be obliged to appear in front of the committee.
52. This relates to a more general issue of whether inquiry committees may also invite private individuals for questioning. This should be possible in principle, given the need of the inquiry committee to fully establish certain events or actions in order to, as per inquiry committees' mandates, *"clarify facts about issues falling under the jurisdiction of the*

41 See ODIHR Opinion on draft Sections I-III of the Rules of Procedure of the National Assembly of Armenia, 2 December 2016, para. 70.

42 Westminster Foundation for Democracy/United Nations Development Programme: *Modern Parliament for a Modern Armenia*, Needs Assessment of the National Assembly of the Republic of Armenia, December 2019, p. 15.

43 See /ODIHR Opinion on draft Sections I-III of the Rules of Procedure of the National Assembly of Armenia, of 2 December 2016, para. 52.

National Assembly and those of public interest”. **It is recommended to reflect the issue of inviting private individuals for questioning in Article 22.**⁴⁴

53. Finally, with respect to the inquiry committees and the parliamentary ethics committees, it may be helpful to specify, in the Rules of Procedure, possible consequences in cases where the committees do not receive the requested information or materials, where they are not as requested, selective, or deliberately misleading, or where persons invited for questioning fail to appear.⁴⁵
54. Once the inquiry committee has concluded its activities, it shall submit a report with the established facts and conclusions concerning measures to be taken to the Chairperson of the National Assembly (Article 25(1)). Within one month, the report shall be debated in a plenary sitting of the National Assembly, and is then sent to the state and local self-government bodies and officials mentioned in the report via the Administration (Section XIX of the Work Procedures, para. 80). Deputy chairpersons, factions, and standing committees shall receive the report within 24 hours, and within the same timeframe, the Administration shall publish it on the website of the National Assembly (Article 81).
55. The respective state and local self-government bodies and officials may, within a month, submit their written responses to the Chairperson of the National Assembly (Section XIX of the Work Procedures, para. 81). The responses shall be put on the official website of the National Assembly. This is a positive step towards enhancing the transparency of the work of the National Assembly, as is the publication of the report.
56. In its 2019 report on the National Assembly, the Westminster Foundation for Democracy noted that inquiry committees typically have no dedicated staff and seem to rely on contributions from staff of relevant standing committees. If such committees are to be effective (and this may apply equally to ad hoc committees), the question of their funding and staff support and capacity needs to be addressed, either by allocating staff to them for the period of their work, or by allocating funds to recruiting external staff. The use of such funds would have to be subject to strict rules around impartiality and transparency.⁴⁶

RECOMMENDATION C.

To re-evaluate strict deadlines that exist for ad hoc and inquiry committees.

4. SESSIONS AND SITTINGS

57. The sessions and sittings of the National Assembly are set out in Section 2 of the Rules of Procedure. In Chapter 9 outlining the first Assembly session, Article 34 details the establishment of the Accounting Commission. **Also here, it is recommended to ensure that gender and diversity considerations are borne in mind in terms of composition of the Commission** (see pars 31 and 43 supra).

⁴⁴ *Ibid.* 2016 ODIHR Opinion, para. 53.

⁴⁵ *Ibid.* 2016 ODIHR Opinion, para. 69. See also ODIHR, [Note on Parliamentary Inquiries into Judicial Activities – Bosnia and Herzegovina](#), pp. 2-3 and para. 28, noting however that the practice varies greatly among countries (see e.g., European Parliament’s Policy Department for Citizens’ Rights and Constitutional Affairs, [Committees of Inquiry in National Parliaments – Comparative Survey](#) (March 2020), pp. 72-87).

⁴⁶ See Westminster Foundation for Democracy/United Nations Development Programme: *Modern Parliament for a Modern Armenia*, Needs Assessment of the National Assembly of the Republic of Armenia, December 2019, p. 22 and p. 50 with a specific recommendation to this effect.

58. Chapters 10-14 then proceed to outline different aspects of sessions and sittings of the National Assembly. Overall, it is noted that, particularly in these chapters, certain provisions in the Rules of Procedure are in some respects extremely detailed – the rules on agenda setting (Article 38) and on debates (Article 59) being among the most striking examples. The risk is that this imparts an excessive degree of rigidity to the proceedings of the National Assembly and its committees, which may deprive the Assembly or the committees of the necessary flexibility that would allow them to prioritize important issues, with lesser time devoted to matters of minor relevance or urgency.
59. Consideration might be given therefore to replacing the agenda setting rules with rules on the allocation of time, with a certain proportion of sitting time being devoted to opposition faction business, and a committee responsible for the arrangement of National Assembly business on a regular basis, on which all factions are represented. Such a committee could then decide on a “business plan” for the National Assembly for a certain time period, e.g. two weeks or a month, which would include the allocation of plenary time for upcoming issues.⁴⁷ A similar body could be created within each standing committee. Such reforms might lead to a better and more effective use of the time of the National Assembly.
60. It is also noted that in Section 2, but also in other parts of the Rules of Procedure,⁴⁸ debates, both at the committee and at the plenary level, are led by a “presiding officer”. It is not clear whether the presiding officer (and deputy presiding officers) and the chairperson (and deputy chairpersons) are one and the same. It is important, however, that presiding officers are under an obligation to act impartially, taking account of the interests of all deputies and factions equally, given that the presiding officer has full control over debates and speaking times, and may even impose disciplinary sanctions against deputies (Article 52). **It would be useful to specify the nature of the presiding officer and how he/she is determined in the text of the Rules of Procedure (unless this is already clear in the original Armenian version of the text), and to include the above-mentioned obligation in Article 52 outlining the powers of the presiding officer.**
61. Under Chapter 12, Article 47 outlines the procedure for convening and holding a special sitting in the case where martial law is declared. Under paragraph 3(3) of this provision, only two members of factions may take the floor in the course of the debate. It is assumed that, given the important subject-matter, this refers to two members *per* faction (as indicated more clearly in Article 105(4)(3) regarding debates on proposals for “*declaring war or establishing peace*”), but it would be good to clarify this (unless the original Armenian version is clearer). Similarly, in Article 48(3)(3) on the procedure for convening and holding a special sitting in case of a declaration of emergency, the text should specify that only one member of each committee and each faction may take the floor.
62. Chapter 13 outlines the general procedure for holding sittings of the National Assembly. According to Article 51(1), “*a sitting of the National Assembly is eligible if at the beginning of the sitting, in accordance with the established procedure, more than half of the total number of Deputies are registered.*” Article 51 contains a similar provision in relation to quora of standing committees. **As already stated in the 2016 Opinion,⁴⁹ it would be advisable to clarify that this means that the registered deputies need to be present at the sitting throughout; if too many deputies leave after having registered,**

47 A similar arrangement can be found in the Scottish Parliament, where the Parliamentary Bureau proposes business plans for specific time periods (see Chapter 5 of the Standing Orders of the Scottish Parliament, 5th Edition, 7th Revision (3 September 2019).

48 See, e.g., Article 15 par 5, Article 33 pars 5 and 6, Article 37 pars 3 and 4, and Article 60 pars 1 and 2 of the Rules of Procedure.

49 ODIHR Opinion on draft Sections I-III of the Rules of Procedure of the National Assembly of Armenia, of 2 December 2016, par 47, dealing with a similar question in relation to committees.

then this eligibility, or quorum, would be lost. In such cases, plenary proceedings should be suspended according to Article 51(4)(1.1), which so far, however, only deals with situations where the respective quorum is not reached at the beginning of a sitting.

63. Based on Article 53 of the Rules of Procedure (which reflects Article 101 of the Constitution), National Assembly sittings shall be public. Paragraph 2 of this provision specifies that sittings may be closed if this is proposed by one-fifth of the total of number of deputies or the Government, and if a resolution to this effect is approved by the majority of the total number of deputies. Similar provisions may be found in relation to sittings of standing committees (Article 14(4)), and the Council (Article 30(2)). However, while Article 53(2) specifies that such decisions shall be taken by simple majority of the total number of deputies, Articles 14 and 30 do not state by which majority such decisions shall be taken and should be adapted accordingly.
64. According to Article 53(2), Article 14(4) and Article 30(2), voting shall be prohibited during closed sittings, which is positive in terms of ensuring the transparency of the National Assembly's work. As stated in the 2016 Opinion in relation to committees, this approach may however lead to problems in situations where the matter being debated is highly confidential,⁵⁰ and where it would thus be near to impossible to hold a public vote. **It may be preferable to amend the Rules of Procedure so that a vote in closed session is possible in very specific, exceptional circumstances.** This approach would allow the National Assembly and committees to be flexible, without compromising too much on the need for transparency of National Assembly sittings.
65. Article 54 contains a lengthy list of persons who, in addition to the deputies, and persons entitled to participate in discussions, may be permitted to attend, including the President, members of the Government, heads of independent institutions such as the Central Bank and Audit Chamber, the General Prosecutor or the Human Rights Defender, the Chief of Staff, as well as persons invited by the Chairperson and persons permitted by the Chief of Staff. The President, Prime Minister and members of the Government, as well as invitees, may also attend closed sessions (Article 54(2)).
66. As already set out in the 2016 Opinion, it is unclear why such a list would be needed, given the public nature of the National Assembly sittings, which would appear to imply that anyone may attend such sittings.⁵¹ Should the list of persons set out under Article 54 also be allowed to take part in debates, raise questions, and discuss about issues in general, then this should be clarified. Currently, however, Article 54(1) appears to distinguish between deputies and persons entitled to participate in the debate and the list of persons set out in this provision, who are merely allowed to "be present". If, on the other hand, this provision is meant to imply that the persons on this list enjoys some sort of priority access to public sittings, then this should also be clarified. **It is advisable to clarify this point, so that it becomes clear why National Assembly sittings are public on the one hand, while on the other hand only certain types of persons may be "present". Similar considerations apply with respect to Article 14(5) on committee hearings.**
67. During sittings, voting takes place following the procedures set out in Article 60 (open voting) and 61 (secret ballot). Should a deputy be on a business trip, he/she shall inform the Chairperson about his/her vote in advance, and should then submit an official letter

⁵⁰ ODIHR, *Opinion on draft Sections I-III of the Rules of Procedure of the National Assembly of Armenia*, of 2 December 2016, par 45. See also ODIHR, *Note on Parliamentary Inquiries into Judicial Activities – Bosnia and Herzegovina*, para. 53 regarding parliamentary committee of investigation, which states: "Restricting publicity of PCI hearings should be exceptional and should only occur if special objectives are to be met such as national security or the protection of secret or confidential information" and "The best approach is to make this decision through a balance of interests. This should preferably be regulated explicitly in the procedures for the inquiry, whether laid down in statutory law or in parliamentary rules of procedure".

⁵¹ ODIHR, *Opinion on draft Sections I-III of the Rules of Procedure of the National Assembly of Armenia*, of 2 December 2016, par 46.

containing the vote to parliamentary staff ahead of the trip in a closed envelope (Article 60 (5)). It appears to be somewhat limiting to allow these types of absentee votes only during business trips, and not in other situations, e.g. absence due to illness or other sudden or immutable circumstances. There should also be some sort of voting arrangement for when deputies go on any form of parental or other family leave (see para. 33 of the Opinion).⁵² **Article 60 should be revisited and supplemented accordingly.**

68. Generally, the National Assembly as well as its committees should produce sessional reports, but also annual reports on its/their activities.
69. Special sittings that deal with the question of whether to give consent to initiate criminal prosecution against a deputy or to deprive him/her of his liberty, thereby lifting parliamentary immunity (Article 108(3) and (4)) do not mention which kind of majority is required in order to lift the respective deputy's immunity for such purposes. The practice varies greatly among countries about the majority that is required and procedure for dealing with proposals or requests to lift immunity.⁵³ Depending on the country context, there is an understanding that requests for the lifting of immunity should be accepted in all cases except where there is cause to suspect the existence of misuse for political reasons. In any case, **the Rules of Procedure should specify more clearly the procedure and required majority. .**

5. THE LEGISLATIVE PROCESS

70. The legislative process is set out in Section 3 of the Rules of Procedure, which covers, in Chapters 15-21, legislative initiative, general debates on draft legislation, first and second readings of draft laws, constitutional amendments, the adoption of the state budget, and special procedures for the debate of draft laws.
71. Overall, it should be noted in this context that rules of procedure of a parliament are a matter of balance – between the demands and policy strategies of the government on the one hand, and parliamentary scrutiny and the balance of powers on the other. The 2015 Constitution tilts that balance to a certain degree in favour of the National Assembly, and has reduced the strong role that the Government previously had in the legislative process, whereby laws initiated by it could only be voted on with amendments acceptable to it.
72. While the changes brought about by the 2015 Constitution, also in the Rules of Procedure, are welcome, the Government nevertheless retains significant advantages in the legislative process, apart from those conferred by having a parliamentary majority. This extends to the exclusive right to initiate certain laws (amendments to which are only possible if acceptable to Government), the right to invoke the urgent procedure or to make the adoption of a draft law a matter of confidence, as well as additional speaking opportunities during certain debates. The Government also has an unfettered or unrestricted right to initiate constitutional amendments.
73. To further enhance the independence of the National Assembly vis-à-vis the Government, it is recommended, on a general note, to rethink this approach. Relevant stakeholders, especially those within the National Assembly, should debate whether in certain aspects, the strong role played by the Government could not be reduced in a manner that takes into account the importance of the Government and its mandate, but

⁵² See Westminster Foundation for Democracy/United Nations Development Programme: *Modern Parliament for a Modern Armenia*, Needs Assessment of the National Assembly of the Republic of Armenia, December 2019, p. 18, where the lack of such arrangements was also raised.

⁵³ See e.g., Venice Commission, *Report on the Scope and Lifting of Parliamentary Immunities* (2014), para. 133.

also the mandate of the National Assembly to oversee the Government, and pass laws as a “transformative legislature”. The ensuing analysis will review the above-mentioned examples of Government powers in the legislative process individually and will provide suggestions on possible alternative approaches.

RECOMMENDATION D.

To reconsider and reorganize the division of authority between the executive and legislative branches throughout the law-making process with the aim of enhancing the independence of the National Assembly vis-à-vis the Government.

5.1. General Procedural Matters

74. Chapter 15 outlines legislative initiatives and the process of submitting draft laws to the National Assembly. According to Article 67, this shall be done via an accompanying official letter, to which a number of documents are appended. This list of documents is included in Section V of the Work Procedures. The documents set out in this provision foresee a *rationale* for the draft law, which shall include references to existing problems, proposed regulations and expected results, as well as the materials on which these are based (para. 25(2)). As per paragraph 28 of the Work Procedures, a conclusion regarding decrease or increase in the State budget revenues by the draft law shall also be appended to the official letter, as well as other documents required by law.
75. It is noticeable that the required *rationale* set out under par 25 of the Work Procedures does not require a proper, in-depth impact assessment or information on the extent and results of public consultations undertaken in the preparation of the draft law. The aim of an impact assessment is to improve the design of regulations by assisting policy-makers to identify and consider the most efficient and effective regulatory approaches, including the non-regulatory alternatives, before they make a decision.⁵⁴
76. In this context, it is noted that Article 5 of the Law on Regulatory Legal Acts appears to require regulatory impact assessments, at least for draft laws prepared by the Government. Moreover, Article 3 of the same Law states that all draft laws, except for those pertaining to the ratification of an international treaty, shall undergo public consultations.
77. In order to help ensure that these provisions are complied with, **Article 67 and Section V of the Work Procedures should be amended so as to specify that when draft laws are submitted to the National Assembly, they should be accompanied by explanatory notes, including a regulatory impact assessment (RIA) and information on public consultations undertaken, and their results.** Ideally, the information on the regulatory impact assessment conducted should include documentation on policy discussions leading up to the decision to draft a law, **including other (legal and non-legal) proposals made on how to resolve the problem, also evaluating its potential gender, diversity, human rights and environmental impact, and why the draft law was favoured over the other options. It is recommended that RIA is carried out with respect to draft laws that are of high importance or impact to the population, as a**

⁵⁴ See Organization for Economic Co-operation and Development (OECD). [Recommendation of the Council on Regulatory Policy and Governance](#) (2012), Appendix 1, Background Note, 4.

whole or in part. As also stated in the 2016 Opinion, those documents related to public consultations, on the other hand, should specify proposals received during consultations, in addition to information on which of these proposals were incorporated into the text, and which were not (and why not).⁵⁵

78. Such requirements should apply to all draft laws that are submitted to the National Assembly, including draft laws prepared by factions or deputies. Currently, Article 1(3)3 of the Law on Regulatory Legal Acts indicates that only governmental draft laws need to undergo regulatory impact assessments and public consultations. It may arguably also be difficult for all legal drafters within the National Assembly to conduct regulatory impact assessments, given that they do not have the same resources as the Government. Nevertheless, to ensure that draft laws that reach the National Assembly are at a similar qualitative level, and to close potential loopholes, consideration should be given to creating the same requirements for all draft laws. At the same time, the National Assembly should, together with the Government, explore different means of making neutral expertise in this field available to all legal drafters within the National Assembly, along with relevant guidance on how to conduct regulatory impact assessments and public consultations – ensuring that such consultations are inclusive and involve all relevant stakeholders, complete with checklists, recommendations and examples.⁵⁶
79. In its 2014 Assessment of the Legislative Process in Armenia, ODIHR had noted that even though regulatory impact assessments and civil society consultations had been prescribed by law even then, these instruments frequently tended to be used in a rather formalistic manner, and were not applied in a proper and in-depth manner. Consequently, ODIHR recommended that the Government and National Assembly develop and commit themselves to a statement of principles of good law-making that would clearly articulate the standards to which the system is expected to conform. One means of achieving such standards in practice is for lawmakers to reject or send back draft laws where the basic standards of good and democratic law-making are not adhered to. Such practice would also help reduce the workload of the National Assembly, and free deputies up for a proper review of good quality draft legislation prepared in line with relevant legislation and standards.⁵⁷
80. According to Article 67(2)(1), an official letter and accompanying draft law and other documentation may be rejected by the Chairperson of the National Assembly in cases where it/they do not comply with the requirements of the Rules of Procedure and the Work Procedures, and are not made to comply with said regulations within three days. As already suggested in the 2016 Opinion, this should not only happen in cases where formal requirements are not met (e.g. if documents are missing or incomplete), but also where the contents of the supporting documents, including the justification for the draft law, impact assessment conclusions, or information on public consultations, do not provide deputies with the information that they require in order to debate and form an opinion on a draft law.⁵⁸
81. If the official letter and accompanying draft law and documentation are compliant with the Rules of Procedure and Work Procedures, then the Chairperson shall, within three days, nominate a lead committee and put the draft law into circulation. The relevant procedure for circulating draft laws is set out in Section VI of the Work Procedures. Paragraph 31 specifies that in addition to the lead committee, this involves sending the draft law to the Administration and, in cases of non-governmental draft laws, to the Government. While there appears to be no direct requirement for draft laws' submission

⁵⁵ ODIHR, *Opinion on draft Sections I-III of the Rules of Procedure of the National Assembly of Armenia*, of 2 December 2016, par 103.

⁵⁶ See ODIHR, *Opinion on the Law on Normative Legal Acts of Armenia*, upcoming, para. 21.

⁵⁷ ODIHR, *Assessment of the Legislative Process in the Republic of Armenia*, October (2014), para. 22.

⁵⁸ ODIHR, *Opinion on draft Sections I-III of the Rules of Procedure of the National Assembly of Armenia*, 2 December 2016, par 106.

/circulation to be made public, all draft laws that are put into circulation are included in a register by the Administration, which is then uploaded onto the website of the National Assembly (see Section XXVI, para. 133 of the Work Procedures). **Documentation of the different stages of debate concerning the draft law should likewise be posted online, including proposals for amendment of the draft law, and revised versions of the draft law up to adoption. This is currently not indicated specifically and should be added to relevant provisions under Section 3.**⁵⁹

82. Under Section VII of the Work Procedures (para. 34), the National Assembly's Administration then has three weeks to prepare conclusions on the draft law's compliance with other legislation, and the need to amend other legislation impacted by the draft law, which it then submits to the Chairperson and the lead committee.
83. This process would seem to be sufficiently important to merit inclusion in the Rules of Procedure rather than the Work Procedures. **The key question that remains is what the consequences will be, should the Administration conclude that the draft is incompatible with other legislation. That question does not appear to be addressed in either the Rules of Procedure or the Work Procedures and should be included.**
84. The Work Procedures also refer, in this section and other sections, to the 'Administration', a term that is not used in the Rules of Procedure. It is assumed that this relates to the staff of the National Assembly, although it is not clear which department or unit this refers to. This may simply be a matter of translation, but if not the case, then there is obvious merit in using the same terminology in the Rules of Procedure and the Work Procedures.
85. Chapter 16 outlines the general procedure for a debate of a draft law. According to Article 69, following preliminary debates and possible amendments introduced at the committee-level, draft laws are usually debated in plenary in two readings (except for draft laws pertaining to the ratification, suspension or renunciation of an international treaty). **While paragraph 3 of Article 69 provides a detailed step-by-step overview of the procedural elements of the main two stages, i.e. first and second readings, neither Article 69, nor other provisions in the Rules of Procedure outline the distinct purposes of these stages, e.g. acceptance or rejection of the draft law in principle (stage 1) and detailed, article-by-article consideration of the draft law (stage 2). It would be helpful if this distinction could be included in the Rules of Procedure.**
86. Article 71 governs the preliminary debate in the lead committee, and in other committees, as applicable. According to paragraph 5 of this provision, the conclusions of the lead committee, and the conclusions of other standing committees on a draft law are presented separately. To save time and efforts, these conclusions could presumably be consolidated in a number of cases. **Article 71 could perhaps be amended so as to facilitate such collaborative undertakings between the different committees, ideally under the leadership of the lead committee.**

RECOMMENDATION E.

To ensure that a regulatory impact assessment on how a bill will affect other pieces of legislation, also evaluating its potential gender, diversity, human rights and environmental impact, is introduced in the Rules of Procedure rather than the Work Procedures, while specifying what the consequences

⁵⁹ See also *ibid.*, 2016 ODIHR, para. 115.

will be, should the Administration conclude that the draft is incompatible with other legislation.

5.2. Urgent Procedures

87. According to Article 73, a draft law that is considered urgent by a resolution of the Government shall be adopted within two months, with each reading completed within a month. This reflects the wording of Article 109(4) of the Constitution.
88. Adopting legislation by accelerated procedure habitually means that some of the usual requirements in the legislative process may be side-stepped – thus, verification of a draft law within committees and at the plenary level of the National Assembly cannot be conducted as diligently as usual, nor will this type of fast-track procedures allow any in-depth consultations and other discussions once it has begun. Given that they may have negative impacts on human rights and the rule of law, as well as on the quality of the respective legislation, it is important that such urgent procedures are not overused and remain the exceptions.
89. It is important that the relevant legal framework allowing for such departures from the usual procedure regulate the criteria and circumstances under which urgent proceedings shall be possible in a careful and balanced manner. This means allowing for genuinely urgent matters to be presented and discussed in a quick and efficient manner, while also installing sufficient safeguards to ensure that the use of accelerated procedures for passing legislation is only reserved for cases where this is absolutely necessary, and where not only the author of a draft law, but also the parliament is convinced of such necessity.⁶⁰
90. When applying these principles to the Armenian Constitution and Rules of Procedure of the National Assembly, the decision to initiate urgent procedures lies not with the National Assembly, but with the Government. Thus, once the Government has passed a resolution stating that a matter is urgent, the National Assembly has no means of verifying the urgency of the matter, nor is it called upon to do so. Such an approach should be underpinned by the necessary safeguards to ensure compatibility with key democratic principles, including the separation and balance of powers (which are established as the foundations of the exercise of political power in Armenia, based on Article 4 of the Constitution).
91. The current system also does not require the Government to provide any justification for initiating urgent procedures – rather, this decision is left fully to the discretion of the relevant governmental leadership. In principle, underlying legislation or procedures need to outline clear and explicit criteria and instances where accelerated proceedings are permissible,⁶¹ and the government or other bodies with legislative initiative shall be held to justify the need for expeditious procedures in detail.⁶² Based on the wording of Article 73 of the Rules of Procedure, and the corresponding Article 109(4) of the Constitution, there are no safeguards in place to prevent the Government from applying the urgent

⁶⁰ See further guidance with respect to adoption of laws during emergency situations, Venice Commission, *Rule of Law Checklist* (2016), p. 22 under section A, chapter 6. .

⁶¹ See ODIHR, *Assessment of the Legislative Process in the Republic of Armenia*, 2014, para. 51. See also ODIHR, *Assessment of the Legislative Process in the Republic of Moldova*, 2010, p. 40.

⁶² ODIHR, *Assessment of the Legislative Process in the Republic of Moldova*, 2010, p. 40.

procedure for many important draft laws, which could lead to abuse of the law, and a diminishing of National Assembly's essential parliamentary scrutiny and oversight role. It should be recalled that exceptions to regular law-making procedures in urgent cases need to be kept to a minimum. Even though urgent procedures can be used in cases of public emergency or due to other compelling reasons, it is important that urgent procedures are properly justified. Accelerated procedures should not be applied to important and wide-ranging reforms.

92. For this reason, and as already stated in the 2016 Opinion,⁶³ **it is recommended to consider changing the Rules of Procedure in such a way that the application of urgent procedures for passing a law is clearly treated as an exception, based on specific, clear and pre-determined criteria set out in both pieces of law.** Also, the final decision to apply the accelerated procedure should lie with the National Assembly, following a reasoned proposal by the Government.
93. Finally, Article 73(5) of the Rules of Procedure states that the two-month time limit shall not be considered expired if the National Assembly makes a decision regarding the draft, namely if it *“refuses to adopt it in the first reading, as well as in the second reading and fully or adopts it as a law”*. It is not clear what is meant by this provision, as normally, all of these decisions would mean that the legislative process within the National Assembly has come to an end. Unless an issue of inconsistent translation, it is recommended to clarify the wording of Article 73(5) accordingly.
94. Under Article 74, the Government may connect the adoption of a draft law with the question of confidence in the Government. This may only happen twice during one session, and the Government may not raise the matter of confidence during a military or emergency situation, or with respect to a constitutional law. This practice of conflating draft legislation with the question of confidence in the Government is also set out in Article 157 of the Constitution.
95. Essentially, these provisions mean that if the Government connects the adoption of a draft law with the question of confidence in the Government, the National Assembly shall vote on a draft decision expressing confidence in the Government within 72 hours. If the draft decision is adopted by majority vote of the total number of deputies, the draft law shall be deemed adopted. Based on the wording of Article 74(4), it appears that the Government's indication that it will invoke the question of confidentiality in the next sitting will effectively put an end to any further debates on a draft law, whether during first or during second reading (and possibly even when a draft law is submitted to the National Assembly, though this scenario is not addressed in the Rules of Procedure).
96. Also in this situation, the Government essentially has the power to curtail or avoid proper scrutiny and debate regarding its draft legislation by the legislature. While there are restrictions on the frequency and situations where such power may be exercised, the Government nevertheless does not need to justify its move, and essentially has full discretion to ensure that, within a parliamentary session, two of its draft laws will be adopted by the National Assembly, regardless of whether the latter approves of the contents of the draft laws or not. Indeed, it is very likely that the National Assembly will express its confidence in the Government in such situations, in order to avoid political turmoil and/or early elections, thereby accepting any draft law that the Government wants to pass in this manner.
97. This is yet another example of the strong role that the Government still plays in the legislative process before the National Assembly, which likewise appears to be at odds with the principles of separation and balance of powers. Such a situation, where the

63 ODIHR, *Opinion on draft Sections I-III of the Rules of Procedure of the National Assembly of Armenia*, 2 December 2016, pars 116-120.

National Assembly could be curtailed in executing its core functions in exchange for a continuing and stable Government, weakens the institution of the National Assembly as such, and will no doubt not be conducive to the establishment of good collaborative ties between the legislature and the executive.

98. Moreover, the above provisions conflate the question of confidence in the Government, which should come from within the National Assembly and only in very rare cases from the Government, with the legislative process. Arguably, the questions of confidence in the Government and whether a particular draft law should be adopted should be kept separate and should not be confused in this manner. It is thus recommended to re-evaluate this practice and to consider removing it from both the Constitution and the Rules of Procedure.

RECOMMENDATION F

To reflect in the Rules of Procedure that the application of urgent procedures for passing a law is an exception, based on specific, clear and pre-determined criteria, while requiring government or other bodies with legislative initiative to justify the need for expeditious procedures.

5.3. Debating a Draft Law in the First Reading

99. The review and debate of draft legislation in the first reading is set out in Chapter 17. Article 78 of the Rules of Procedure governs the preliminary debate in the lead committee before the first reading in the National Assembly. The second part of Article 78(1) refers to Article 77(4), which no longer exists, and should therefore presumably be deleted.
100. According to Article 78(4)(1) and (2), draft laws that are within the exclusive competence of the Government may not be changed during committee sessions or may only be changed in a manner agreeable to the Government. The *rationale* for keeping certain specific fields of law within the sole legislative initiative of the Government is clear.⁶⁴ At the same time, this would mean that in these cases, the impact of the National Assembly, and its ability to conduct parliamentary oversight, are severely limited. To ensure the proper separation and balance of powers, **it is recommended to reconsider the current approach, and see whether such restrictions are truly necessary, given their negative impact on the oversight role of the National Assembly.**
101. According to Article 78(4)(5), the main speaker during the preliminary debate (which, based on the wording of paragraph 2(1), is essentially the author of a draft law) may postpone the vote in order to elaborate the draft law (there is no vote within the committee on this point). If the elaborated draft law is submitted to the committee at least three days prior to the next sitting, it shall be voted on in that sitting.
102. As already stated in the 2016 Opinion, this provides the main speaker with considerable discretion in these proceedings, which may blur the line between the preparatory stages of a draft law and its reading in the National Assembly. Moreover, if the author of a draft law is from the Government, this again raises issues with regard to the separation and

⁶⁴ According to the Constitution, these are laws on the State Budget (Article 110(1)), laws related to ratification, suspension, or renunciation of international treaties (Article 116(2)), on amnesty (Article 117), on administrative territorial units and divisions (Article 121), on the list of ministries and procedure of activities (Article 147(2)(2), and on inter-community unions (Article 189(1)).

balance of powers, and the National Assembly's oversight role, as this means that the Government decides the pace at which its draft laws progress through the preliminary debate stage within committees, regardless of the wishes of the committee.

103. Furthermore, the elaborated draft law is then simply voted on, with no additional debate on this piece of legislation at the committee level. Depending on the extent of the changes that are made at this point, and given that the entire purpose of the committee stage is to review and vet incoming draft legislation, this would appear to weaken the role of the committees considerably. Especially in the case of lengthy or complex draft legislation, or where a draft law has been extensively amended following the postponement of the vote, a minimum time limit of three days also may not be sufficient to allow the members of the committee to properly acquaint themselves with the revised draft law in time for the next vote.
104. For the above reasons, **the process outlined in Article 78(4)(5) should be re-evaluated and should be amended to enhance the role of the committees.** While it should remain possible to postpone the vote on certain draft laws following the proposal of the main speaker, **this should be up to the committees to decide, as should the decision to continue the debate on a revised draft law once it is submitted, and the time that is needed for such further discussions.** Moreover, and in line with the principle that a draft law submitted to the National Assembly essentially becomes the "National Assembly's draft law", **the committees should also have the right to reject proposals to postpone voting, and to submit revised draft laws to the plenary even if this does not correspond to the wishes of the author of a draft law.**⁶⁵ Similar considerations apply with respect to the postponement of votes during the first reading under Article 79(5).
105. If the initial draft law, as amended, is not approved by the committee, then one of the factions or one of the deputies in the committee may prepare an alternate draft, which the committee may then decide to submit to the plenary along with the initial draft law (Article 78(6)). Both alternative draft laws are then debated within the plenary following a procedure set out in Article 80 of the Rules of Procedure.
106. This procedure does not appear to make the best use of the preliminary debate stage at the committee level; instead of obliging the committee to adopt one draft law (that possibly includes different alternatives of certain provisions) that is then passed on to the plenary, the committee is allowed to submit one revised version of the original draft law, and yet another version with additional proposals. This process seems to be somewhat cumbersome, and increases the time and effort put into the debate and adoption of legislation, as not only one, but two draft laws need to be compared and discussed, while not allowing for any form of procedure whereby certain elements of one draft law could be merged with the other.
107. It may be preferable to amend Article 78(6) and Article 80, so that **the committee submits only one draft law to the plenary for first reading, with, if needed, several alternatives for certain provisions included.** Another approach outlined in the 2016 Opinion would be **to encourage deputies to submit amendments that would be discussed together with the relevant provisions of the draft law submitted to plenary.**⁶⁶
108. Article 79 governs the first reading debate in the National Assembly. In cases involving draft laws submitted by deputies, factions or as a result of a popular initiative, the

⁶⁵ ODIHR *Assessment of the Legislative Process in the Republic of Armenia*, October 2014, para. 68.

⁶⁶ See also ODIHR *Opinion on draft Sections I-III of the Rules of Procedure of the National Assembly of Armenia*, 2 December 2016, para. 114.

Government has a right to “extraordinary speech”. This is another example of the privileged role of the Government in the legislative process before the National Assembly and it should be revisited. While the Government should have the right to comment on draft laws initiated by non-governmental authors, there is no apparent reason why it should have the right to an “extraordinary speech”, and why it should not participate in such debates on the same level as deputies and other stakeholders.

RECOMMENDATION G.

To reconsider the current approach with respect to the limitations on committee deliberations of draft laws that fall within the exclusive competence of the Government and to find a balance between the Government exclusive regulatory scope and the oversight role of the National Assembly.



6. PARLIAMENTARY OVERSIGHT

109. Parliamentary oversight, i.e., the review of government administration and the progress on its action plans, helps promoting better administration and maintaining the essential balance of powers in a democracy. It is necessary to ensure that policies announced by the Government and authorized by the National Assembly are actually pursued in a proper way and that the goals set by legislation and the Government’s programmes are achieved. Additionally, parliamentary control is necessary to help improve the transparency of the Government’s actions and enhance public trust towards the Government.⁶⁷
110. Section 5 of the Rules of Procedure outlines different aspects of parliamentary oversight, including budgetary oversight (Chapter 24), procedures of debate on other matters of parliamentary oversight (Chapter 25), and reports, communications and statements of state bodies (Chapter 26).
111. On the topic of parliamentary oversight, ODIHR, in its 2014 Assessment, had noted that the National Assembly appeared to exercise mostly its legislative function and much less of its oversight functions.⁶⁸ The Westminster Foundation for Democracy Report of 2019 contained similar findings.⁶⁹
112. While the ensuing sub-sections outline the different oversight competences of factions, standing committees and the National Assembly plenary respectively, there are some oversight tools that are shared by all of these bodies. One of them is the right to convene hearings under Article 125 of the Rules of Procedure. According to Section XXI of the Work Procedures (paras. 87-88), the decision to convene a hearing (containing date, time, venue and procedure of the hearing) must be posted on the official website, and information about hearings communicated to the mass media at least three business days before a hearing takes place. It is questionable whether this constitutes sufficient notice, and **it would be advisable to consider expanding this time period, so that relevant**

67 ODIHR Assessment of the Legislative Process in the Republic of Armenia, October 2014, paras. 64-65.

68 ODIHR Assessment of the Legislative Process in the Republic of Armenia, October 2014, para. 64.

69 See Westminster Foundation for Democracy/United Nations Development Programme: *Modern Parliament for a Modern Armenia*, Needs Assessment of the National Assembly of the Republic of Armenia, December 2019, p. 19.

stakeholders have sufficient time to become aware of such a hearing and ensure their participation.

113. According to paragraph 90 of the Work Procedures, the disclosure of the results of hearings prepared, as the case may be, by the Chairperson of the National Assembly or chairperson of a lead committee, or by a faction, requires the agreement of the Chairperson of the National Assembly. This runs counter to the idea or principle that parliamentary proceedings in all their forms should be made public as a matter of record. **It is recommended to remove this requirement from the wording of paragraph 90 of the Work Procedures.**

6.1. Interpellations to the Government by Factions

114. Under Chapter 25 of the Rules of Procedure, next to deputies' rights to address written and oral questions to the Government (Articles 119-120), factions may also make interpellations to members of the Government based on Article 121, which follows a principle set out by Article 113 of the Constitution.
115. The Constitution imposes no limits on the number of interpellations that factions may address to members of the Government, but Article 121(2) specifies that each faction may only make one interpellation in each regular session. Other than the inconvenience to members of the Government of being obliged to respond to an interpellation within 30 days, it is not obvious why the right to address interpellations should be limited in this way. It may be advisable to rethink this approach, and to remove this restriction.
116. Following proposed amendments to the Rules of Procedure in 2020, including a new provision under Article 121(1.1), it would be open to the chair of a lead committee to propose that factions exercise their right to interpellations by way of follow-up to the committee's oversight activities. This would be a way of attaching consequences or strengthening the effectiveness of committee oversight beyond the simple forwarding of conclusions envisaged by Article 122(6) of the Rules of Procedure. At the same time, given that each faction is limited to one interpellation in each session it would not be surprising if factions were reluctant to exercise their right in this way. The more general question for consideration is whether this is enough by way of follow-up where shortcomings or failings are revealed by committees' oversight activities.
117. **This aspect of parliamentary oversight should thus be reviewed in its entirety with a view to finding a solution that would ensure true accountability of the Government to the National Assembly on matters falling within its scope of responsibilities.**

6.2. Oversight by Parliamentary Standing Committees

118. Article 122 governs the role of standing committees in parliamentary oversight. It provides that committees "*shall implement parliamentary oversight over the process of implementation of laws*", and that they may also "*request information on the progress of the implementation of a Government programme*". It is for each committee to decide the "*topics for parliamentary oversight*".
119. Standing committees are thus 'all-purpose' (or 'dual-purpose') committees: they are established for the preliminary review of draft laws (and other issues) as well as for exercising parliamentary oversight (Article 10(1) of the Rules of Procedure). The weakness of such a system, which is likely to be especially acute in Armenia given the scale of law-making activity, is that the amount of legislation that (some but not necessarily all) committees have to deal with means that there is probably little effective scope or time for oversight. There is no easy solution to this problem. One solution,

which is not without its own difficulties, is to entrust the two functions to separate committees. This matter should be debated, bearing in mind the need to strengthen the role of committees in the legislative process in general, but also the oversight mechanisms of the National Assembly as such.

120. Written conclusions may be adopted as a result of committees' oversight activities, which may be forwarded to other National Assembly bodies, as well as to "competent bodies and officials" in accordance with the Work Procedure (Article 122(6) of the Rules of Procedure). Section XVIII of the Work Procedure (paragraph 78) clarifies that such conclusions are sent to the competent government authorities or local self-governmental authorities or officials via the National Assembly's Administration within two working days. Neither the Rules of Procedure, nor the Work Procedures foresee any deadline within which the respective bodies or officials are required to respond, unless the three weeks' deadline for replying to a committee's written requests, as set out in Article 12(2) of the Rules of Procedure, apply here. If this is the case, then Article 122(6) should include the appropriate reference to this provision.
121. Once the competent authorities and officials have replied, the Administration forwards such replies to the Chairperson, his/her deputies, factions and standing committees within 24 hours, and posts them on the official website of the National Assembly (paragraph 79). While it is welcome that the responses to the requests are published, it would be advisable to also publish the conclusions of the committees, and the findings on which they are based, once they have been sent out. This would help enhance transparency of the National Assembly in the exercise of its oversight role and would ensure timely responses from the executive.
122. It may also be useful to further structure and diversify committees' means of overseeing Government actions on an annual basis. Also, given that the actual impact and proper implementation of laws can usually only be assessed after a period of several years, it would be useful to introduce a system whereby the implementation of laws and the impact that they have (essentially: how they work in practice) is reviewed several times.
123. While a review of implementation in the year of adoption is important to see whether the transition and initial phase of a law have gone smoothly, it is equally important that the relevance, effectiveness and implementation of laws are reviewed on a regular basis two or three years after their adoption, and also at a later stage. The ex post evaluation of legislation is key to understanding whether laws function in practice and should be the starting point for any new draft laws or amendments. **Consideration should be given to developing a more stringent system of ex post evaluation of adopted legislation at the committee level,⁷⁰ and to supplement Article 122 accordingly.**
124. Article 122 does not contain any obligation on Government representatives **to provide the information sought by the committee, nor is there any indication of what would happen should the requested information not be provided.** To enhance the effectiveness of committees' parliamentary oversight, it is advised to supplement Article 122 accordingly.

6.3. Plenary Debates

125. Article 123 of the Rules of Procedure makes provision for plenary debates on urgent topics of matters of public interest, consequent on Article 114 of the Constitution. Such

⁷⁰ See Westminster Foundation for Democracy/United Nations Development Programme: *Modern Parliament for a Modern Armenia*, Needs Assessment of the National Assembly of the Republic of Armenia, December 2019, pp. 30 and 33, which also states that so far, limited attention has been paid to the role of the National Assembly in ex post evaluation of legislation and recommends, on p. 51, to enhance the National Assembly's role in parliamentary oversight of the executive branch, including post-legislative scrutiny to review both the enactment of law and its impact on society.

debates shall take place at one of the sittings during the regular session (other days may be proposed one week in advance), based on a proposal submitted by one-fifth of the total number of deputies.

126. It is difficult to imagine, however, how proceedings such as the ones described in Article 123 would allow any type of effective urgent or emergency debate to take place, primarily because neither the conduct nor the time limits set out in this provision reflect the urgent nature of such a debate.
127. There is no indication that urgent debates may be held outside of the regular parliamentary sessions in cases where urgent matters or emergencies come up while the National Assembly is not in session. This should be added, along with a proper procedure that should ideally also include possibilities for online discussions (provided that the technical equipment of the National Assembly allows this).
128. Moreover, the time limits for the submission of proposals are not any shorter than those of normal, non-urgent debates – the Chairperson still has three days to reject the proposal on formal grounds. Debates should take place only during the third main sitting of a Tuesday of each regular sitting, convened with the usual time limits set out in Article 36(1) of the Rules of Procedure. A debate during a forthcoming sitting is only possible if the requisite proposal is submitted to the Chairperson of the National Assembly one week in advance.
129. Matters of urgency usually need to be debated within the shortest possible time – thus, it may not be possible for the respective deputies to wait for the next Tuesday session, nor may there be time to request a debate at the next sitting one week in advance. The current procedure does not appear to take into consideration the urgent nature of such proceedings, and should thus **be extensively revised, so that urgent parliamentary debates are possible at short notice.**
130. At the end of the debate, the main speaker may propose to adopt an address or a statement of the National Assembly, which shall be put to a vote without debate (Article 123(6)). If no such proposal is made, or if it is not adopted, then the debate of the issue shall be deemed concluded. It is unclear why addresses or statements of the National Assembly pertaining to urgent matters of public interest shall not be debated prior to their adoption. **It is recommended to rethink this approach, and to also allow a debate on the contents of the address or statement.**
131. Chapter 26 of the Rules of Procedure establishes a general procedure for the submission and debate of reports of state bodies, as well as procedures for the submission and debate of particular reports, e.g. the Audit Chamber's annual report (Article 130). It is uncertain whether all these reports should be automatically debated in the National Assembly, as is envisaged by Article 126(2), or whether debates shall only take place where they are of particular importance, e.g. the annual report on the implementation of the Government's programme (Article 127), or raise matters of particular concern. It may be worthwhile to consider the latter approach, to ensure that valuable parliamentary time is not devoted to routine matters when it could be used for other purposes.

RECOMMENDATION H

To consider developing a more stringent system of *ex post* evaluation of adopted legislation at the committee level, and to supplement Article 122 of the Rules of Procedure accordingly.

7. FINAL COMMENTS

132. Generally, any future amendments to the Rules of Procedure should undergo extensive consultations both within the National Assembly, but also beyond, including with the Government, and where relevant with independent institutions and civil society.
133. Public consultations constitute a means of open and democratic governance; they lead to higher transparency and accountability of public institutions, and help ensure that potential controversies are identified before a law is adopted.⁷¹ Discussions held in this manner that allow for an open and inclusive debate will increase all stakeholders' understanding of the various factors involved and enhance confidence in the adopted legislation. Ultimately, this also tends to improve the implementation of laws once adopted.

[END OF TEXT]

⁷¹ See e.g., ODIHR, [*Guidelines on the Protection of Human Rights Defenders*](#) (2014), Section II, Sub-Section G on the Right to participate in public affairs.