

ARMENIA: AN OPPORTUNITY FOR STATESMANSHIP

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ARMENIA: AN OPPORTUNITY FOR STATESMANSHIP

EXECUTIVE SUMMARY AND RECOMMENDATIONS

After May's parliamentary elections, Armenia is preparing for a pivotal presidential vote in 2013 that will determine whether it has shed a nearly two-decade history of fraud-tainted elections and put in place a government with the legitimacy needed to implement comprehensive reform and resolve its problems with Azerbaijan. President Serzh Sargsyan has a brief opportunity to demonstrate statesmanship before he again faces the voters in what is likely to be a competitive contest. Sargsyan has demonstrated some courage to promote change, but like his predecessors, he has thus far failed to deal effectively with serious economic and governance problems, including the debilitating, albeit low-intensity, Nagorno-Karabakh war. Another election perceived as seriously flawed would serve as a further distraction from peace talks and severe economic problems. The likely consequences would then be ever more citizens opting out of democratic politics, including by emigration.

The genuinely competitive parliamentary election had some positive signs. Media coverage during much of the campaign was more balanced, and free assembly, expression and movement were largely respected. The president's ruling Republican Party won a solid majority of seats, but its former coalition partner, Prosperous Armenia – associated with rich businessmen and ex-president Robert Kocharyan – came in a strong second. The Armenian National Congress (ANC), led by the first post-independence president, Levon Ter-Petrossian, returned to parliament after a more than ten-year absence. Nevertheless, many old problems reappeared: abuse of administrative resources; inflated voters lists; vote-buying; lack of sufficient redress for election violations; and reports of multiple voting and pressure on some voters. Reforms adopted after the violence that left ten dead and 450 injured following the 2008 election that brought Sargsyan to power were spottily implemented.

It is crucial that the February 2013 election in which Sargsyan will seek a second term, becomes "the cleanest elections in Armenian history", as the president had promised, not least because polls show very low trust in nearly all government bodies and institutions, including the presidency and parliament. The president initially took some

bold steps, most noteworthy attempting to normalise relations with Turkey. A new class of under-40 technocrats, less influenced by Soviet ways of decision-making, has risen through the ranks and is widely seen as favouring a new style of government. But change has been slow. Political courage is needed to overhaul a deeply entrenched system in which big business and politics are intertwined in a manner that is often at least opaque. This manifests itself most vividly through the domination of much of the economy by a small group of rich businessmen with government connections.

The political crisis after the 2008 post-election violence, as well as the 2009 world economic crisis, shook Armenia. Weak political will and the resistance of vested interests muted many of the long-overdue, if timid, reforms the administration started. The economy consequently remains undiversified, unhealthily reliant on remittances. Rates of emigration and seasonal migration abroad are alarmingly high. There have been few serious efforts to combat high-level corruption. The executive branch still enjoys overwhelming, virtually unchecked powers. The judicial system is perceived as neither independent nor competent: the prosecutor dominates procedures, and mechanisms to hold authorities accountable are largely ineffective.

Media freedom is inadequate. Outright harassment of journalists and media outlets has decreased, but there is still a glaring lack of diversity in television, from which an overwhelming majority of Armenians get their information. No nationwide broadcasters are regarded as fully independent.

Russia remains Armenia's key ally – both its main security guarantor and biggest trading and investment partner. Because of the war with Azerbaijan and frozen ties with Turkey, Yerevan has few realistic alternatives to Moscow, though it has frequently sought a "multi-vector" foreign policy and deeper ties with Euro-Atlantic partners. The EU and U.S. are trying to increase their influence, offering expertise and other aid to promote reforms, but they should do more to keep the government accountable and encourage the building of democratic institutions, especially if they want to be seen as credible, even-handed

critics throughout the region with elections also due in Georgia and Azerbaijan in 2012-2013. Twenty years after the breakup of the Soviet Union, peaceful democratic transitions of power have yet to become the norm in the South Caucasus.

President Sargsyan and his government acknowledge many of the most pressing problems, but numerous reforms exist only on paper or seem deliberately designed with ineffective enforcement mechanisms. The cautious, evolutionary approach to reforms provides at best weak stability. The breakup of the Republican-Prosperous Armenia governing coalition and a more competitive parliament may now provide the stimulus the administration needs. Limping towards change, however, would neither capitalise on Armenia's strengths nor be a good presidential campaign strategy. The country needs a better future than a stunted economy and dead-end conflicts with neighbours.

RECOMMENDATIONS

To further democratisation, economic growth and reform and make the government better prepared to engage in difficult discussions with Azerbaijan over resolution of the Nagorno-Karabakh conflict

To the Government of Armenia:

1. Make deep governance and economic reforms a top priority to build public trust in state institutions.
2. Address the shortcomings of the electoral process identified by the International Election Observation (IEO) mission; improve, in particular, voter lists and the complaints and appeals procedure; and investigate and penalise abuses of the elections process by state officials.
3. Continue to make the fight against corruption a state priority by prosecuting officials involved in fraud.
4. Pass a new Criminal Procedure Code that strengthens the independence of the judiciary, increases the role of the defence and decreases the prosecutor general's powers; and improve the effectiveness of the Administrative Court to hold officials accountable.
5. Increase financial support for the office of the ombudsman, especially its activities in the regions.
6. Establish civilian control and accountability of the police; tackle corruption in the force; and consider establishing a ministry to which the police would be subordinate.
7. Redouble efforts to resolve the Nagorno-Karabakh conflict with Azerbaijan and maintain an open approach to resuming a dialogue with Turkey.

To the U.S., EU and international organisations:

8. Offer technical and financial assistance to help the government address voter registration problems, especially bloated voters lists, which undermine public trust in elections.
9. Support aggressive judicial reform programs linked to the setting of benchmarks for implementation of the "strategic action plan 2012-2016" and passage of a new Criminal Procedure Code.
10. Increase funding to non-state actors to support reform; and hold the government accountable for any backsliding from progress achieved during the 2012 parliamentary vote regarding media access and freedom of assembly and expression.

Yerevan/Tbilisi/Istanbul/Brussels, 25 June 2012

ARMENIA: AN OPPORTUNITY FOR STATEMANSHIP

I. INTRODUCTION

Armenia is in the midst of an election cycle that will test its fragile commitment to democracy and significantly determine whether crucial, long-overdue reforms are enacted. The May 2012 parliamentary elections were the first national vote after the flawed 2008 presidential vote and subsequent crackdown on protesters that left ten dead and 450 injured,¹ the biggest crisis since a shaky truce ended the all-out hostilities with Azerbaijan in 1994.² They were also the first in a new round of elections across the South Caucasus. Georgia holds a crucial parliamentary vote in October and a presidential vote in early 2013; Azerbaijan, like Armenia, also votes for president in 2013. Free and fair elections, and particularly peaceful, democratic, transitions of power, have yet to become standard throughout the conflict-ridden region. How the international community, especially the EU and U.S., respond to Armenia's situation will importantly affect their ability to influence democratic processes throughout the neighbourhood.

The 2012 vote showed some improvement over 2008 and that political will can bring results, but major abuses that continued to damage Armenia's image and state legitimacy must be addressed before the next elections. The renewed parliamentary majority of his Republican Party gives President Sargsyan an opportunity to enact vital reforms. Many of these already exist on paper but are poorly implemented. Sargsyan admits deep change is vital to economic and social viability. However, his fraud-tainted 2008 election and the subsequent violent crackdown left him with a legitimacy deficit.³ The 2012 improvements were only a start.

Sargsyan (prime minister at the time) was seen in 2008 more as outgoing president Robert Kocharyan's hand-picked successor than as the electorate's true choice. Kocharyan

suffered the same legitimacy deficit for ten years due to a series of bad elections.⁴ It counts as a sign of greater political maturity that the 2012 parliamentary vote was viewed as a proxy contest between Sargsyan and Kocharyan, who is now increasingly identified with the ruling party's former coalition partner, Prosperous Armenia.

Sargsyan gave indications during his first years in office that he would gradually distance himself from Kocharyan's style and philosophy and embark on some politically risky policies.⁵ He approved attempts to normalise relations with Turkey and seemed more open – initially at least – to compromise with Azerbaijan to end the Nagorno-Karabakh conflict. He also advanced several unpopular economic initiatives, though implementation has been problematic. Like Kocharyan, he built his political career around Nagorno-Karabakh war-hero credentials and the perception of being an able guarantor of national security.⁶ But corruption, systematic economic malaise and rampant emigration took their toll on his image, as they had on his prede-

⁴ The Organisation for Security and Cooperation in Europe-Office for Democratic Institutions and Human Rights (OSCE-ODIHR) has declared each consecutive election since 1996 as not "meeting OSCE commitments for democratic elections". See "Armenian Presidential Elections September 24, 1996, Final Report"; "Republic of Armenia Presidential Election 16 March and 30 March 1998 OSCE/ODIHR Election Observation Mission Final Report", Warsaw; Simon Osborn (international observer coordinator), "Republic of Armenia Presidential Election 19 February and 5 March 2003"; "OSCE/ODIHR Election Observation Mission Final Report", Warsaw, 23 April 2003; and "Republic of Armenia Presidential Election 19 February 2008, OSCE/ODIHR Election Observation Mission Final Report", Warsaw, 30 May 2008.

⁵ Between 2008 and 2012, Kocharyan kept a relatively low political profile but played a role behind the scenes. Possible presidential ambitions are unclear, though after sitting out a term, he could constitutionally serve two additional consecutive terms. Robert Kocharyan, "I try not to get involved in internal political processes", Mediamax news agency, 3 May 2012.

⁶ Sargsyan and Kocharyan both come from Nagorno-Karabakh, where Kocharyan was chairman of the defence committee, de facto prime minister and de facto president, before moving to Yerevan to become prime minister and later president of Armenia. Sargsyan commanded the Karabakhi "armed forces" during the conflict with Azerbaijan and held multiple posts, including defence, interior and national security minister, presidential chief of staff and prime minister.

¹ See Crisis Group Europe Briefing N°48, *Armenia: Picking up the Pieces*, 8 April 2008.

² For previous analysis of the dynamics of the Nagorno-Karabakh conflict, see Crisis Group Europe Briefing N°60, *Armenia and Azerbaijan: Preventing War*, 8 February 2011.

³ His main opponent, ex-president Levon Ter-Petrossian, never recognised the results and continues to claim he won with about 65 per cent of the vote. Officially, he received 25.6 per cent compared to Sargsyan's 52 per cent.

cessor's.⁷ These concerns must be addressed by any politician who wants genuine and sustainable public support.

Trust in the political system and government institutions is low. Only 35 per cent of Armenians say they "fully or somewhat trust" the presidency; 38 per cent express confidence in local government, 29 per cent in the police, 22 per cent in the judiciary and 23 per cent in parliament. The most respected institution is the Armenian Apostolic Church (AAC), about which 76 per cent say they are "fully or somewhat trusting", but it plays virtually no political role. The army, until a few years ago the most trusted institution, has the respect of 64 per cent.⁸

Neither opposition groups nor the many non-governmental organisations inspire much confidence.⁹ Corruption and abuse of public office for personal enrichment still go unpunished, and emigration is the most emblematic sign of systemic dysfunction. A deeply dissatisfied population votes with its feet. More than a million have left since independence – 81,500 in 2011 alone, though that figure is considered a significant underestimate.¹⁰

Public impatience grew as the economy began a deep downturn, with GDP diving 14.2 per cent in 2009. At \$10.1 billion in 2011, the economy has still not returned to its 2008 GDP level of \$11.6 billion.¹¹ External debt as a percentage of GDP has risen steadily, to 36.1 per cent in 2011.¹²

⁷ "Glavnye problem Armenii – bezrabotitsa, bednost i inflacija: socopros pravitelstva" [Armenia's main problems are unemployment, poverty and inflation: government surveys], Regnum news agency, 23 January 2012.

⁸ "Caucasus Barometer", preliminary 2011 results, the Caucasus Research Resource Centres (CRRC). For over 1,500 years the Armenian Apostolic Church was viewed almost as a surrogate for a nation state and a preserver of Armenian self-identity as a Christian nation facing constant existential threats from Persians and Ottoman Turks. The constitution mandates separation of church and state, though the AAC is mentioned as the "national church" in legislation. In 2011, the army's public support was 64 per cent, *ibid*.

⁹ Pre-election polls gave the Armenian National Congress (ANC) between 4 and 9 per cent, the Heritage party 4 per cent and ARF-D (Dashnaks) 4 per cent. In the elections the ANC received 7.1 per cent, Heritage 5.8 and ARF-D 5.7 per cent

¹⁰ "International border crossings by month and transportation means for 2011", State Migration Service (territorial administration ministry), <http://smsmta.am/?id=928>. Because Armenia is in a state of war with Azerbaijan, population figures are considered a national security matter; even published figures are generally regarded sceptically.

¹¹ Official GDP in 2008 was AMD 3.568 billion (\$11.6 billion) and in 2011 AMD 3.863 billion (\$10.1 billion). "World Economic Outlook", International Monetary Fund (IMF), April 2012.

¹² "Armenia's current external debt poses no threat to its economy: minister", Arka news agency, 4 May 2012. This means borrowing costs to cover budget shortfalls are increasing. Though

Though "official" unemployment was only 8 per cent,¹³ some 48 per cent of respondents to a reputable survey said they were unemployed and looking for a job.¹⁴ Inflation rose to close to 10 per cent.¹⁵ About 1.2 million people (35.8 per cent of the population) live below the official poverty line,¹⁶ while the country fell twenty places, to 129th of 183, in a key worldwide corruption index over the past four years.¹⁷

Under difficult political and economic conditions, the government has implemented some of Crisis Group's 2008 recommendations for restoring political stability, most significantly releasing persons held on political grounds and entering into credible dialogue with the main opposition bloc, ANC. It has not, however, broken with the past by launching criminal proceedings against the perpetrators of that year's deadly violence. While some international organisations consider the chapter closed,¹⁸ it continues to polarise segments of society.

Crisis Group undertook this snapshot of Armenia's political and economic situation, its first in several years, because the country remains locked in conflict with Azerbaijan, steps to normalise relations with Turkey have run aground, and economic problems are contributing to a high level of emigration. Armenia has to be fully engaged if there is to be progress in securing peace and stability in the South Caucasus – not distracted by deep domestic political conflict, institutional breakdown and lack of popular trust in the social contract.

the World Bank considers a rate of less than 50 percent tolerable for a small and emerging economy, Armenian governments have prided themselves on fiscal discipline, so the increase to 42 per cent from 13.5 in 2008 is notable. Ara Nrayan, "Armenia: 20 Years of Integration into Capitalism – Consequences and Challenges", in "South Caucasus – 20 Years of Independence", Friedrich Ebert Stiftung, 2011, pp. 194-217.

¹³ "Statistical Yearbook, 2010", Employment, www.armstat.am/file/doc/99461553.pdf.

¹⁴ "Caucasus Barometer", CRRC, 2010. Some economists put the unemployment rate as high as 40 per cent. Crisis Group interviews, local economist, Yerevan, May 2012.

¹⁵ Nrayan, "Armenia", *op. cit.*, p. 209.

¹⁶ "Social snapshot and poverty in Armenia", National Statistical Service press release, 29 November 2011.

¹⁷ "Perception Index", Transparency International, 2008 and 2011. Crisis Group interviews, anti-corruption expert, Yerevan, February 2012. According to a survey conducted in Armenia in 2008-2010, 60 per cent see corruption as a very serious problem. "Corruption Survey of Households, 2008, 2009, 2010. Comparative Analysis", CRRC, 2010.

¹⁸ "Report on the Functioning of the Democratic Institutions in Armenia", Committee on the Honouring of Obligations and Commitments by Member States, Parliamentary Assembly of the Council of Europe (PACE), doc. 12710, 15 September 2011.

II. THE POLITICAL BALANCE

The political and governance system has been remarkably resilient in the face of war, two closed borders, and social unrest. The national instinct places a paramount value on stability,¹⁹ an instinct rooted in a history marked by tragic events like the *Mets Yeghern* (genocide) in the early twentieth century, which produced a profound sense of vulnerability, and thus a reluctance to risk full-blown internal confrontation.

This inclination helped President Ter-Petrosian, despite the profound isolation and near total economic breakdown caused by the war with Azerbaijan, consolidate control in Armenia, while its neighbours, Azerbaijan and Georgia, plunged into political chaos in the early 1990s. The second president, Robert Kocharyan, tapped into this “stabilisation impulse” to consolidate his power after the 1999 attack on parliament by extremist gunmen that left eight dead, including the speaker and the prime minister.²⁰ In 2008, Ter-Petrosian, then the main opposition leader, hewed to the same principle, opting to seek a swift de-escalation of tensions after the post-election violence.²¹

A. SARGSYAN’S PRESIDENCY

1. Powers and core policies

The 2005 constitution gives the president strong executive powers. He appoints the prime minister and cabinet and nominates the prosecutor general and the president of the central bank, who are appointed by the parliament, where the current president’s party holds a majority. Parliament’s oversight is weak. Most legislation is initiated by the presidential administration.²² The president fully controls the “power” agencies: the army, police and national security service.²³ His control over the judicial system is

especially strong. He appoints the chair, as well as justices, of the Court of Cassation, appeals courts and other special courts, though in theory he is supposed to take into account Council of Justice recommendations. Likewise, he may remove judges or lift their immunity from prosecution.²⁴

President Sargsyan has taken some surprising domestic and foreign policy initiatives. He announced general prisoner amnesties in 2009 and 2011, when he ordered the release of about 100 people imprisoned in connection with the 2008 violence. He also lifted bans on public gatherings, allowing the opposition ANC to hold rallies on the capital’s central Freedom Square, an emotional location because of its association with that year’s post-election events. The new “Emergency Law”, introduced in March 2012, is more explicit in describing what roles the police and the armed forces have if a “state of emergency” is declared, allowing the armed forces to be used if the country’s “Constitutional Order” is threatened, so leaving open the possibility that they could be deployed to crack down on protesters.²⁵

Responding to domestic and international pressure, Sargsyan initiated a dialogue with the ANC in mid-2011. The process quickly deadlocked, though it gave the ANC enough confidence to contest the parliamentary elections. During the campaign, opposition groups were not prevented, as they had been in the past, to rent venues for meetings or to hold rallies outside Yerevan. These positive changes prompted Khachatur Sukiasyan, a wealthy businessman and important financial backer of Ter-Petrosian, to say that “the atmosphere has changed and it is now possible to work and try to make a change for the country’s development”.²⁶ Nevertheless, some allegations of official intimidation continued.²⁷

Arguably, the president’s most courageous and potentially politically risky initiative was to accelerate normalisation with Turkey. Only months in office, he invited President Gül to Yerevan in September 2008 for a football match between the national teams. Gül then hosted him for the same occasion in October 2009. Sargsyan took this step in the face of strong opposition both in Armenia and from many diaspora groups.²⁸ On 10 October 2010,

¹⁹ The overriding value Armenia’s political culture places on “stability” is explained thus: “that historical consciousness instilled in Armenians the belief that weakness and internal squabbling would leave them, or their Karabakh compatriots, vulnerable to attack and annihilation”. Edmund Herzig, “Politics in independent Armenia”, in Edmund Herzig, Marina Kurkchyan (eds.), *The Armenians: past and present in the making of national identity* (New York, 2005), p. 168.

²⁰ See Crisis Group Europe Briefing N°158, *Armenia: Internal Instability Ahead*, 18 October 2004, p. 3.

²¹ Crisis Group interviews, local journalists, opposition politicians and analysts, Yerevan, December 2011.

²² Boris Navasardyan, “Politics and Governance in Armenia: The Prospects for Democracy”, in “South Caucasus”, op. cit., p. 97.

²³ Sargsyan quickly put protégés in major jobs, among them Seyran Ohanyan (a Karabakh war hero) as defence minister and Alik Sargsyan (replaced in 2012 and no relation to President Sargsyan) as head of the police.

²⁴ Constitution of the Republic of Armenia, 2005.

²⁵ Crisis Group interviews, civil society activists, Yerevan, February, March 2012.

²⁶ Gayane Abrahamyan, “Sukiasyan confident of re-election: businessman acknowledges ‘new atmosphere’”, Armenia Now, www.armenianow.com, 14 March 2012. Sukiasyan, however, did not contest the elections because election officials concluded he did not meet a requirement for continuous residency.

²⁷ Crisis Group interviews, political analysts, Yerevan, December 2012.

²⁸ Crisis Group Europe Report N°99, *Turkey and Armenia: Opening Minds, Opening Borders*, 14 April 2009, p. 22.

after Swiss facilitation and with U.S., Russian and EU support, Turkey and Armenia signed two protocols, “Establishment of Diplomatic Relations” and “Development of Relations”.²⁹

Neither parliament has ratified these protocols, however, the result of domestic opposition in both countries. In Turkey, heavy pressure by its ally, Azerbaijan, which leveraged its considerable clout as a major supplier of hydrocarbons, was also a factor. At Baku’s insistence, the ruling AKP party conditioned ratification on progress in resolving the Nagorno-Karabakh conflict. The argument was that since Turkey had closed the frontier with Armenia in 1993 due to the Armenian military occupation of Azerbaijani territory outside of Nagorno-Karabakh, the border could not be reopened until a withdrawal began.³⁰ In response to the subsequent lack of progress, Sargsyan reverted to a hard-line refusal of official talks or cooperation with Turkish officials. This is counterproductive. Armenia and Turkey should re-engage and seek ways to implement mutually beneficial projects, such as establishing consular services in each other’s capitals or re-connecting rail links.

Improved Turkey-Armenian official relations are now unlikely unless there is progress in attempts by the Minsk Group of the Organisation for Security and Cooperation in Europe (OSCE) to facilitate signature by Armenia and Azerbaijan of a “Basic Principles” agreement that would set the framework for an eventual peace deal. This is now highly unlikely. Sargsyan indicated support for the Basic Principles in 2011.³¹ But Azerbaijan, which had supported an earlier version, argued on the eve of a 2011 meeting between the presidents in Kazan that the latest text was ambiguous on the width of the corridor linking Armenia

to Nagorno-Karabakh and the composition of the international peacekeeping force.³² Support for the agreement was weak from the outset among the Armenian public, which equates maintaining the “status quo” with peace.³³ While Nagorno-Karabakh and security in general previously ranked high among popular concerns, today’s electorate is much more focused on unemployment, inflation and corruption.³⁴

2. The “30-something” technocrats

Sargsyan’s term has been marked by the rise of a crop of under-40s to mid- and high-level government positions. This “young technocrat” class carries no intellectual or emotional baggage from the Soviet period or the 1990s war years with Azerbaijan. Most have studied abroad, speak fluent English and are differentiated from the older officials by their exposure to the globalised world. Many went into government because the dire state of the economy limits private sector opportunities³⁵ and were hired because the Sargsyan administration wanted to distinguish itself from Kocharyan and the Republican Party “old guard”. Though they may not all be “reformers” or “firm bearers of democratic values”, they are politically dominant in the presidential administration, the central bank, the finance, economy, education and justice ministries and the prosecutor general’s office.³⁶

Prime Minister Tigran Sargsyan’s chief of staff, David Sargsyan (no relation), is 34 and credited with pushing forward the implementation of “e-government” measures like electronic tax filing.³⁷ Armen Gevorgyan, 38, is deputy prime minister and regional administration minister. The head of the presidential administration, Vigen Sargsyan (no relation), is 36. Indeed, all the president’s chief aides are under 40. Deputy Parliament Speaker Eduard Sharmazanov is 36. The mayor of Yerevan, Taron Margaryan, is

²⁹ In the first protocol, the two sides promised to establish diplomatic relations; exchange diplomatic missions; reopen the land border within two months of ratification; and mutually recognise the existing frontier. In the second protocol, intended to go into effect simultaneously with reestablishment of diplomatic ties, they promised to promote cooperation in all areas, from energy infrastructure to tourism; to set up a mechanism for regular foreign ministry consultations, including an inter-governmental commission and seven sub-commissions; act jointly to preserve the cultural heritage; and establish consular cooperation.

³⁰ Turkish officials generally blame Armenia for the impasse. They cite a 12 January 2009 decision by Armenia’s Constitutional Court that found the protocols did not contradict the constitution but contained a lengthy preamble that appeared to leave the door open to future Armenian claims to areas of eastern present-day Turkey.

³¹ The proposed Basic Principles include international security guarantees including peacekeepers; return of occupied Azerbaijani territories; a land corridor between Armenia and Nagorno-Karabakh; the right to return for all displaced people; an interim status for Nagorno-Karabakh; and determination of final status by a legally binding expression of will. See Crisis Group Briefing, *Armenia and Azerbaijan: Preventing War*, op. cit., p. 8.

³² Crisis Group interviews, high-level officials, Baku, November 2011. Then Russian President Medvedev hosted the meeting.

³³ Crisis Group interviews, political analysts, Yerevan, October 2011, February 2012.

³⁴ In 2007, Nagorno-Karabakh was the number three concern; in 2012 it had dropped to number six. “Armenian National Voter Study, 2007”, International Republican Institute, U.S. Agency for International Development; “Baltic Survey”, The Gallup Organization, Armenia Sociological Association (ASA); and “What are the main issues facing Armenia”, Armnews, Baltic Surveys, ASA, 2012. “Glavnye problem Armenii”, Regnum news agency, op. cit.

³⁵ Crisis Group interview, political analyst, Yerevan, February 2012.

³⁶ Crisis Group interviews, political analysts, Yerevan, February 2012; political analyst, Tbilisi, March 2012.

³⁷ The prime minister and the chief of staff are not related to the president or to each other. The prime minister himself, while now 52, began his career at 38 as governor of the central bank.

33. Education Minister Armen Ashotyan is 36, Justice Minister Tovmasyan is 42, and three of his deputies are under 40. Two deputies of the 59-year-old prosecutor general, Agvan Hovsepyan, are in their mid-30s.

Though this new technocratic class is increasingly perceived as being at odds with the old guard and oligarchs, its cohesiveness is at best fragile. Most have no direct or identifiable constituencies and lack the patronage instruments to distribute resources – in cash or in kind – especially during election campaigns.

B. OLIGARCHS

1. Controlling the economy

High-profile businessmen seen as providing substantial support to the political elite (in government or the opposition) and as benefiting from their political ties are commonly referred to in Armenia as oligarchs.³⁸ As the International Monetary Fund (IMF) described in 2011, they tend to dominate the local economy.³⁹ They are “centred on several informal commodity-based cartels and semi-monopolies”⁴⁰ in specific economic sectors or geographic regions.⁴¹ This is especially visible in the trade of commodities, like sugar, flour, alcoholic beverages and gasoline. Two companies reportedly control virtually all cement production and sales.⁴² Unspoken rules are believed to be enforced through informal “traditions” and a lack of effective legal means for opposing the system. For example, potential competitors do not contemplate importing sugar, “because everyone knows that it is a monopoly”.⁴³

³⁸ The oligarchs are described by analysts as relying on 25-30 highly visible “managers” from 50 to 60 *akhperutyuns* (families). Crisis Group interviews, analysts and journalists, Yerevan, December 2011 and February 2012.

³⁹ “Republic of Armenia: Third Reviews Under the Extended Fund Facility and Extended Credit Facility, and Request for Modification of Performance Criteria”, International Monetary Fund (IMF), 23 November 2011, p. 15.

⁴⁰ “Bertelsmann Transformation Index (BTI) 2012 – Armenia Country Report”, Bertelsmann Stiftung, 2012, p. 14. “They represent a convergence between corporate, state and in some cases, even criminal interests”, p. 20.

⁴¹ “Businessmen call for abolishing oligopoly and enhancing business environment”, Tert, tert.am, 22 February 2011; Ruben Meloyan, “Armenia learning from crisis, says World Bank”, RFE/RL, 27 November 2009.

⁴² “The Business of Politics: Leading Enterprises of Political Elites”, U.S. embassy Yerevan cable, 17 November 2009, as made public by Wikileaks. www.cablegatesearch.net/cable.php?id=09YEREVAN798.

⁴³ Crisis Group interview, local analyst, Yerevan, May 2012.

International financial institutions have identified monopolies and oligopolies as a major obstacle to business development in Armenia.⁴⁴ Oligarchs appear to benefit from tax and customs advantages,⁴⁵ a reason why the government collects only about 19.3 per cent of GDP in taxes,⁴⁶ compared to the 40 per cent average in the EU.⁴⁷ However, the government has shown some resolve to improve tax collection. In 2009 it established a lottery incentive on sales receipts and a hotline to report vendors who fail to provide them to consumers. This allowed it to identify, for example, a firm it believed was drastically under-reporting sales so as to pay lower taxes.⁴⁸

In 2009, businessmen claimed that only 10 per cent of imported goods were going through proper customs procedures and that the “reference pricing” practice used by custom officials to levy duties and tariffs was arbitrary.⁴⁹ Government officials countered that their main aim in using reference pricing was to combat fraud and the use of fake invoices to understate the real cost of imported goods.⁵⁰

2. Influencing policy

Oligarchs do not seem to influence national policymaking in any systematic way. Rather, efforts to secure favourable economic or financial conditions and hence dividends appear ad hoc. Few are believed to be ministers, in contrast to Azerbaijan, for example, where some of the rich-

⁴⁴ “OECD Anti-Corruption Network for Eastern Europe and Central Asia, Istanbul Anti-Corruption Action Plan, second Round of Monitoring Armenia, Monitoring Report”, 29 September 2011, p. 7; “Progress Report on the Country Partnership Strategy for the Republic of Armenia”, World Bank, 3 June 2011, p. 10; “Strategy for Armenia”, European Bank for Reconstruction and Development, 21 April 2009.

⁴⁵ “Armenia 2011: Without Illusions”, Civilitas Foundation, (Yerevan, 2011), p. 46.

⁴⁶ “Program Snapshot”, World Bank Armenia, September 2011, but 20.1 per cent according to the president, “Address at the thirteenth Republican party convention”, 10 March 2012.

⁴⁷ “Tax Revenue Statistics – Data from December 2011”, Eurostat <http://epp.eurostat.ec.europa.eu/>.

⁴⁸ “1000 biggest taxpayers in Armenia”, State Revenue Committee 2010 and 2011 (In Armenian).

⁴⁹ “Armenia’s AMCHAM Discusses Concerns with the Ambassador”, U.S. embassy Yerevan cable, 24 June, 2009, as made public by Wikileaks. www.cablegatesearch.net/cable.php?id=09YEREVAN448.

⁵⁰ “Reference prices” are set by the state customs committee to serve as a basis for levying duties. Crisis Group interviews, foreign economic expert, Yerevan, February 2012. “Comments on Tax and Customs Administration: Interview with Gagik Khachatryan, Head of the Republic of Armenia (RA) State Revenue Committee”, American Chamber of Commerce in Armenia website, www.amcham.am, no date.

est businessmen are in the cabinet.⁵¹ However, the constitutional ban on members of parliament owning or running businesses is often ignored.⁵² Thus, in 2007, two dozen businessmen were elected to parliament on the ruling party's list and another two dozen on that of its then-coalition partner Prosperous Armenia. The legal immunity and prestige that parliamentarians enjoy makes the seats attractive, though absenteeism is rampant.⁵³

Some oligarchs, using charitable foundations, sponsor everything from rock concerts to free transport, or secure voter support by handing out benefits, from free medical care to tractors. For example, Prosperous Armenia leader Tsarukyan's fund prompted controversy by establishing personal scholarships at several state universities.⁵⁴ During the election period, this fund also spent significantly on handouts like tractors, potatoes and even eye glasses.⁵⁵ Prosperous Armenia official said the handouts were strictly related to the fund's charitable activities or other business projects, not politics.⁵⁶

⁵¹ Crisis Group Europe Report N°207, *Azerbaijan: Vulnerable Stability*, 3 September 2010, p. 8.

⁵² Article 65, constitution: "A Deputy may not be engaged in entrepreneurial activities, hold an office in state and local self-government bodies or in commercial organisations, as well as engage in any other paid occupation, except for scientific, educational and creative work. [Upon entering into business activities] A Deputy shall [resign from his/her parliamentary seat]". A non-official translation is available on the website of the Armenian National Assembly, www.parliament.am. "Levon Ter-Petrossian: 76 out of 131 Armenian MPs are businessmen", Arminfo, www.arminfo.info, 9 September 2011.

⁵³ Prosperous Armenia leader Gagik Tsarukyan himself reportedly missed 97 per cent of parliamentary sessions. "Parliament Monitoring Statistics", Parliament Monitoring, <http://parliament.monitoring.am>, 2011. The secretary of the Prosperous Armenia parliamentary faction stated that Tsarukyan was "overly busy" with his work to attend the sessions. Siranuysh Gevorgyan, "Too 'busy': tycoon's 'conspicuous absence' from parliament chamber construed by some as political message", Armenia Now, www.armenianow.com, 1 June 2012.

⁵⁴ "Imennyje stipendii v gosvuzakh ustanavlivajut gosorgany, napomnil ministr" [Personal scholarships at the state university are established by state organs, the minister reminded], Info rotor.ru, 18 September 2011.

⁵⁵ For example, see "Statement of Preliminary Findings and Conclusions, International Election Observation, Republic of Armenia – Parliamentary Elections, 6 May 2012", p. 8. Crisis Group interviews, local election observers, Yerevan, May 2012.

⁵⁶ "Gagik Tsarukyan' foundation administers charity for ten years, Tsarukyan's spokesman says", Tert, www.tert.am, 19 April 2012. The Prosperous Armenia party said that the distribution of 500 tractors during election rallies was not related to elections, but rather "it was part of a joint business project to set up tractor parks around Armenia where Tsarukyan's Multigroup was a partner". Tigran Avetisian, Irina Hovhanissyan, "Tractor distribution not vote buying, says Tsarukyan party",

Many oligarchs have their own security details and are said to benefit from an informal understanding that they in effect enjoy legal immunity.⁵⁷ Political influence may be more pronounced in the regions outside the capital Yerevan and often involve a pyramid-type structure, headed by an individual with ties to politicians and "managers" below.⁵⁸ A local "boss" (*avtoritet*) wields informal power at the neighbourhood level. Loyalty is enforced by a "code of honour" and serves as its own system of power, beyond state institutions or laws.⁵⁹ During elections, the pyramids are expected to deliver votes in return for state jobs, business preferences or other favourable treatment. In 2012 this system still seemed relatively intact.⁶⁰

The influence of oligarchs on politics, exerted through informal patronage networks, increases a propensity for corruption, undermining economic growth and the development of effective democratic institutions. President Sargsyan has done little to tackle this, despite a November 2011 pledge that "business must be consistently separated from the state system".⁶¹ He and his allies vowed no oligarchs would be on the ruling party's list, but 33 Republican Party-affiliated businessmen contested single-mandate election districts.⁶²

RFE/RL, 1 May 2012; "BHK on tractors", A1plus, A1plus.am, 21 April 2012.

⁵⁷ "Direct Source Confirms Syunik Governor's Assault on Teenager", U.S. embassy Yerevan cable, 13 June 2008, as made public by Wikileaks, www.cablegatesearch.net/cable.php?id=08YEREVAN489.

⁵⁸ Crisis Group interviews, political analyst, Yerevan, December, 2011.

⁵⁹ Mikael Zolyan, "Armenia's 'Velvet Revolution': Successes and Failures", in "South Caucasus", op. cit., p. 51.

⁶⁰ Crisis Group interviews, political analyst, Yerevan, May 2012.

⁶¹ "Armenian President Vows to End Business Oligarchy", RFE/RL, 10 November 2011.

⁶² Anoush Martirosian, "PM Defends Wealthy MPs Running for Re-Election", ArmenianLiberty, www.armenianliberty.org, 23 March 2012.

III. THE STRUGGLE TO REFORM

The political crisis of 2008 and economic one of 2009 exposed the need to change the idiosyncratic governance system. Yet while many Armenians, for example, cite Georgia's more "radical" approach,⁶³ the authorities still broadly embrace a more cautious "transformation" or "evolutionary" path⁶⁴ and make no decisive move to systematically change the existing order. Weak political will and strong vested interests,⁶⁵ as well as a culture that values family and clan ties over civic values,⁶⁶ have slowed or watered down reform. Lack of public trust in the authorities (especially the judiciary), weak checks and balances between the branches of government, inadequate civic and human rights protection, poor media diversity and the emergence of a small political and economic elite are additional obstacles.⁶⁷

An admission that deep changes were needed was already forthcoming in 2008, when the government announced a package of electoral, judicial and police reforms.⁶⁸ Parliament adopted a new electoral code in May 2011, requested OSCE assistance with police reforms and appointed a technocrat with considerable international experience as justice minister. While this was encouraging, a Council of Europe (CoE) resolution summed up the opinions of many: "the significant number of reform concepts and strategies ... should now be translated into draft legislation and concrete policies, in order to implement the reforms needed for the country".⁶⁹

⁶³ In particular, traffic police and public registry reforms. Crisis Group interviews, political analysts, politicians, February 2012. There is also persistent talk that businesses are moving to Georgia, because of its more favourable legislation and low corruption and government interference. See, for example, Nino Patsuria, "Armenian business eyes Georgian business land", *Georgian Journal*, 20 April 2011. "Grand Candy expanding output in Armenia", Arka news agency, 23 February 2011.

⁶⁴ Crisis Group interviews, public officials, politicians, Yerevan, February 2012.

⁶⁵ The Council of Europe, in an explanatory note to its Resolution 12710, said, referring to the challenge of changing the existing "practice and mentalities" to implement needed reforms, that "with commensurate political will it is possible to achieve these necessary changes". Crisis Group interviews, political analysts, February 2012.

⁶⁶ Mikayel Zolyan, "Armenia's 'Velvet Revolution'", op. cit., p. 55.

⁶⁷ "Explanatory memorandum by Mr Prescott and Mr Fischer to the report of the Council of Europe on the Functioning of the Democratic institutions", PACE, 15 September 2011.

⁶⁸ Ibid.

⁶⁹ "Report on the Functioning of the Democratic Institutions in Armenia", PACE, op. cit.

A. REFORMING THE ECONOMY

The economy was dealt a disproportionately heavy blow by the world financial crisis. In 2009, the construction sector – previously a key driver of growth – contracted more than 40 per cent.⁷⁰ Remittances dropped 30 per cent, from over \$1 billion to about \$750 million, prices for non-ferrous metals declined, and the tourist industry slowed.⁷¹ Since 2010, prices and demand for Armenian exports like copper and other base metals have increased. Remittances, a key revenue source, have picked up slightly. In 2011, GDP growth was 4.4 per cent and estimated per capita GDP \$5,395, but Armenia fell ten spots on the UN Human Development Index, to 86th place out of 185.⁷²

The World Bank estimates a crackdown on tax evasion by companies could collect an additional \$400 million to \$500 million annually,⁷³ and the government has begun to address the issue, introducing electronic accounting and e-filing for taxpayers and an automatic system of returning value added tax (VAT) to exporters. More than 10,000 retail cash registers were electronically connected to a central server, "enabling the authorities to read their data without visiting the site", and a one-stop shop for simplifying payment of customs duties is under discussion.⁷⁴

Some of these steps have started to show results: Armenia's World Bank ratings have improved in three of nine categories and in its overall economic score. In 2012, it ranks tenth in the ease of starting a business, up from twentieth in 2011. It has risen to fifth worldwide for ease of registering property and 40th on obtaining construction permits. But in a reflection of continuing legal and bureaucratic obstructions, it is 97th for protecting investors, 150th in ready access to electricity and 153rd on tax compliance.⁷⁵ Both foreign and domestic investors complain

⁷⁰ "Statistical Yearbook, 2010. Construction", www.armstat.am/file/doc/99461608.pdf.

⁷¹ "Statistical Yearbook, 2010", construction, www.armstat.am/file/doc/99461608.pdf; Nrayan, "Armenia", op. cit., pp. 203-207. Crisis Group interviews, economists, Yerevan, February, 2012. "Armenia Country Profile", World Bank, 2011.

⁷² GDP grew 2.1 per cent in 2010 and is projected to grow 3.8 per cent in 2012. Per capital GDP was similar to Georgia (\$5,430) but much less than Azerbaijan (\$10,063). "World Economic Outlook 2011", IMF. Georgia ranked 75th on the index, Azerbaijan 91st.

⁷³ Crisis Group interview, Armenian economist, Yerevan, February, 2012.

⁷⁴ Haroutuin Khachatryan, "Armenian government continues liberalization of taxes and customs", *Central Asia-Caucasus Analyst*, 11 January 2012.

⁷⁵ "Doing Business 2012, Economy Profile: Armenia", World Bank, 2011.

about arbitrary tax enforcement,⁷⁶ as well as the prevalence of the informal sector that benefits well-connected competitors and hence creates a badly uneven playing field.⁷⁷

B. FIGHTING CORRUPTION

President Sargsyan calls corruption a “tumour which has overwhelmed our society”.⁷⁸ Although the government has adopted two “Anti-Corruption Strategies” since 2003, the score on Transparency International’s Corruption Perception Index has worsened since 2007, from 3.0 to 2.6 on a one (most corrupt) to ten (least corrupt) scale.⁷⁹ This causes much cynicism, with 65 per cent of Armenians reportedly resigned to corruption as a “fact of life”.⁸⁰ The judicial system, the Central Elections Commission (CEC) and the police are viewed among the most corrupt institutions.⁸¹ Some progress on petty corruption has been noted,⁸² but research indicates that this is largely cosmetic, and the perception exists that the system has simply become more centralised.⁸³

In 2008, the new prime minister, Tigran Sargsyan (no relation to the president), outlined four main government aims: streamlining the fight against corruption, establishing political competition, investigating corruption in law-enforcement and developing a new anti-corruption strategy. The strategy for 2009-2012 proposes 240 measures, but according to the OECD, it “remains on paper” only. An “Anti-Corruption Council” and the “Anti-Corruption Strategy Implementation Monitoring Commission” have produced few tangible results. There is still no permanent enforcement body to evaluate implementation of the action plan.

A less than transparent system for public procurement offers ample possibilities for graft. AMD 175 billion (\$450 million) – over 17 per cent of the state budget – was apparently allocated for public procurement in 2011,⁸⁴ and 80 per cent of the contracts given out are said to be “single source”, meaning they are awarded non-competitively to a company.⁸⁵ While some measures have been introduced, like decentralising procurement and introducing e-procurement in the minority of competitive bidding cases, even these modest steps are still not fully functional.⁸⁶

The firing of public officials, including the heads of the State Customs Committee and the visa and passport department, has been the most visible method of dealing with allegations of corruption.⁸⁷ In November 2010, two deputy health ministers resigned, followed by dismissals of the agriculture minister and the head of the state social welfare service.⁸⁸ But very few senior officials have actually been prosecuted.⁸⁹ In 2010, Armenia abolished immunity for parliamentary, mayoral and local council candidates, as well as members of the central, regional and local election commissions. But members of parliament still enjoy immunity, and in the few cases where it has been stripped, political motives seem to have been the driving force.⁹⁰

In what the OECD called a “courageous step”,⁹¹ the government adopted a “Law on Public Service” in 2011 that introduced rules to rein in corrupt civil servant practices and even stricter rules for senior officials. However, legislators, Constitutional Court and other judges and prosecutors all fall outside most of them.⁹² While solid-looking on paper, the Ethics Committee for High-Ranking Public

⁷⁶ “Enterprise Surveys, Country Profile: Armenia”, World Bank and International Financial Corporation, 2009.

⁷⁷ The Asian Development Bank put the contribution of the informal sector to overall GDP in 2008 at about a quarter of the whole, with 52.1 per cent of the workforce considering itself “informally employed”. “The informal sector and informal employment in Armenia”, January 2011, pp. XIII-XIV.

⁷⁸ Republican party convention address, op. cit.

⁷⁹ “Corruption Perception Index”, Transparency International, 2007, 2011.

⁸⁰ “Corruption Survey of Households, 2008, 2009, 2010, Comparative Analysis”, CRRC-Armenia, 2010.

⁸¹ Ibid.

⁸² Reportedly, 9 per cent of those surveyed in 2010 said they had paid a bribe in the past twelve months; 6 per cent said the same in 2011. “Caucasus Barometer”, CRRC, 2010; *ibid.*, preliminary results, 2011. Citizens continue to report being solicited for bribes by traffic police, though less frequently than in previous years. They also report that police solicit bribes to drop criminal cases or reduce penalties. See “Human Rights in the World - Armenia”, U.S. Department of State, April 2011, p. 48.

⁸³ Narek Sahakyan, “Measuring Costs of Corruption in Armenia”, IREX scholar research brief, 12 September 2010.

⁸⁴ Karen Bagdasaryan, “Armenia: Case study on e-Government Procurement”, Asian Development Bank, May 2011.

⁸⁵ “Armenia: Averting an Economic Catastrophe”, Policy Forum Armenia, February 2012.

⁸⁶ Crisis Group interviews, Yerevan, February 2012.

⁸⁷ “Armenia; getting serious about corruption?”, Eurasianet.org, 10 July 2008.

⁸⁸ “Nations in Transit 2011”, Freedom House, 2011.

⁸⁹ Two more recent cases involve the head of the traffic police, Margar Ohanyan, and former head of the criminal investigation department, Hovannes Tumanyan. “V Armenii arestovan zamestitel komandujushchego vojskami policii” [Deputy Head of police troops is arrested in Armenia], Kavpolit, <http://kavpolit.com>, 5 April 2012. However, mostly low and mid-level officials face charges. In 2011, 58 cases of corruption were actually investigated; 23 cases, involving 33 officials, were sent to court, www.investigatory.am/am/News/item/148/#.

⁹⁰ “Report on the implementation by Armenia of Assembly Resolutions 1609 (2008) and 1620 (2008)”, PACE, doc. 11678, 22 December 2008.

⁹¹ OECD Anti-Corruption Network Report, op.cit., p. 45.

⁹² *Ibid.*, p. 45.

Officials can only look into corruption cases and send reports to the president.⁹³

C. RULE OF LAW AND THE JUDICIARY

Poorly resourced, riddled with prosecutorial sway over judges and generally showing little respect for the rule of law, the judicial system is deeply distrusted.⁹⁴ In March 2008 the then ombudsman, Armen Harutunyan, said that this distrust helped stoke tensions that culminated in the year's post-election violence.⁹⁵ In January 2012, Justice Minister Tovmasyan estimated that 70 to 80 per cent of the population did not trust the legal system and pledged to accelerate reform over the next four years.⁹⁶ Again, corruption is a major issue. Judges are overwhelmingly viewed as corrupt,⁹⁷ and the perception that bribes are required for favourable judgments is widespread.⁹⁸

The aftermath of the 2008 violence demonstrated police and judicial system subservience to the government. Crisis Group and many international organisations called for an independent investigation with international involvement. A new body appointed by the president, the Special Investigative Service (SIS), did conduct an inquiry, but it merely blamed opposition protesters for instigating mass disorder.⁹⁹ No officers from the security services were seriously punished for the excessive use of force.

The authorities did allow OSCE/ODIHR (Office for Democratic Institutions and Human Rights) to monitor the trials of the approximately 100 people detained in connection with the violence. An OSCE/ODIHR report painted a bleak picture: those detained were often kept in pre-arraignment custody for maximum periods; arrests were improperly and inaccurately documented; presumption of innocence was not followed; defendants faced open hostility or ill

treatment from officials; and public defenders were of poor quality.¹⁰⁰

These criticisms helped promote a push for criminal justice reform, with the government formulating a "Concept Paper on the Reform of the Criminal Procedure Legislation in Armenia" to feed into efforts to draft a new criminal procedure code the first draft of which a parliament sub-committee discussed in 2011.¹⁰¹ Experts who have seen it express concern that the progressive policy goals of the concept paper are not included. The parliament is expected to pass the criminal procedure code by the end of 2012.¹⁰²

A new code is needed to guarantee balanced separation of powers between the investigative, prosecutorial and judicial authorities. As in many post-Soviet systems, real power is in the hands of prosecutors, therefore by definition, the authorities, police and government. Acquittal rates were just under 2 per cent in 2011.¹⁰³ A 2007 law was supposed to reduce the latitude of the prosecutor general's office, leaving it powers only to oversee the lawfulness of inquests and preliminary investigations. In practice, however, defence counsels remains deferential to police and prosecutors.¹⁰⁴ The formally independent SIS was created to investigate (including in the pre-trial phase) cases of alleged criminal abuse involving officials and, as noted above, given the lead on the 2008 post-election violence.¹⁰⁵ But the state retains most of its control of the prosecution process, and the SIS has gained a politicised reputation that cripples its mission.¹⁰⁶

The prosecutor general's office and the judicial system overall represent what are widely viewed as "vested in-

⁹³ Crisis Group interview, legal expert, Yerevan, February 2012.

⁹⁴ "The Assembly is concerned about the functioning and lack of independence of the judiciary in Armenia, which impedes its role as an impartial arbiter", Report on the Functioning of the Democratic Institutions in Armenia", PACE, op. cit., p. 3.

⁹⁵ Crisis Group Report, *Armenia: Picking up the Pieces*, op. cit., p. 14.

⁹⁶ "Opros obshchestvennogo mnienija obnaruzhil nizkij uroven doverija k sudebnoj system" [Public opinion survey reveals low level of trust toward the judiciary], *Vestnik Kavkaza*, 25 January 2012.

⁹⁷ 64 per cent assess courts as corrupt. "Corruption Survey of Households", op. cit.

⁹⁸ "Rule of Law Index in Armenia", American Bar Association Rule of Law Initiative, January 2008. Crisis Group interviews, rule of law experts, Yerevan, February 2012.

⁹⁹ "Report on the Functioning of the Democratic Institutions in Armenia", PACE, op. cit.

¹⁰⁰ "Trial Monitoring Project in Armenia (April 2008-June 2009), Final Report", OSCE/ODIHR, Warsaw, 8 March 2010. A report by the Council of Europe's European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment had similar findings: "Report to the Armenian Government on the visit to Armenia carried out by the European Committee on Prevention of Torture and Inhuman and Degrading Treatment or Punishment (CPT) from March 15 to 17, 2008", March 2010.

¹⁰¹ The president established a commission in April 2010 to prepare the Concept Paper. OSCE/ODIHR reviewed the concept paper and gave the government a note summarising its findings in November. The current code dates to 1998.

¹⁰² Crisis Group phone interview, rule of law experts, Yerevan, June 2012.

¹⁰³ 76 acquittals out of 3,997 trial cases according to statistics provided by the courts. Crisis Group email correspondence, rule of law expert, Yerevan, February 2012.

¹⁰⁴ "Report to the Armenian Government", Council of Europe, Committee for the Prevention of Torture, op. cit.

¹⁰⁵ "Monitoring of Democratic Reforms in Armenia 2007-2008", Yerevan Press Club, 2009.

¹⁰⁶ "Report on the Functioning of the Democratic Institutions in Armenia", PACE, op. cit.

terests".¹⁰⁷ The top-heavy nature of law enforcement, in which the president exercises overwhelming control over the police, hampers reform. Since there is no interior ministry, the police are self-governing and accountable directly to the president. Such an arrangement limits oversight – particularly by the parliament – and the CoE has recommended that the government consider establishing a ministry to which the police and security forces would be subordinate.¹⁰⁸ Instead, police reform has focussed on bringing crowd control tactics up to international standards. Cases of torture and ill-treatment of detainees are reported but few are properly investigated.¹⁰⁹

The government announced a 2009-2011 "action plan" to ensure an independent and accountable justice system, equal access to justice, increased transparency and enforcement procedures and reduced corruption.¹¹⁰ In 2011, the EU noted some progress "on enhancing transparency in the court system, on improving the electronic court statistics data and on the construction and upgrading of court buildings", but found that "judges are still strongly influenced by prosecutors, as well as by politically and economically powerful figures".¹¹¹

Justice Minister Hrayr Tovmasyan unveiled a 2012-2016 strategic plan for judicial reforms that again identified an independent judiciary as a top priority, as well as proposing higher salaries for judges, improved prison conditions and tackling recidivism and premature release of inmates.¹¹² To improve the rule of law fundamentally, however, more should also be done to guarantee that officials are held accountable. Since 2008, the Administrative Court has formally allowed citizens to bring charges against officials, but cases have tended to drag out and have not changed

perceptions that officials are "above the law".¹¹³ More is also required to reform the prosecutor general's office, starting by decreasing its powers to refer cases to the SIS. Strengthening the role of defence counsel in criminal cases likewise remains urgent, and judges need to be protected from prosecutorial and government interference.

Arbitrary abuses of the rule of law are said to be particularly pronounced in remote areas, where citizens are much more dependent on state services and jobs than in Yerevan.¹¹⁴ The ombudsman's positive work should be supported, including by the state, but that official had only a single (state-funded) office in the capital before OSCE and EU funding, not government financial support, allowed a few regional offices to be opened in 2012.¹¹⁵

D. A PILLAR OF VITAL SUPPORT: THE ARMY

The army continues to be one of the most respected institutions. Nevertheless, Seyran Ohanyan, who replaced Serzh Sargsyan as defence minister in 2008, has indicated that more frank discussion about its problems is needed. As an example, he has encouraged more debate on hazing, which accounts for a substantial number of non-combat deaths.¹¹⁶ Since independence, the army has always been seen as a pillar of regime support. In 2008, for example, units were part of the force that violently dispersed protesters. The 2012 Emergency Law provides that the army can only be used to restore order when neither the police nor National Security Service forces are able to and there exists a threat to the "Constitutional Order of the Republic".¹¹⁷ Thus there is no absolute guarantee that the army might not be employed to intervene in political events or crack down on protests. At least one source claimed, however, that Ohanyan told other officials he would not order soldiers to fire on civilians, signalling a possible depoliticisation of the armed forces.¹¹⁸

¹⁰⁷ Crisis Group interviews, legal experts, Yerevan, February 2012.

¹⁰⁸ "Report on the Functioning of the Democratic Institutions in Armenia", PACE, *op. cit.*

¹⁰⁹ One case of police torture was investigated in 2011. In 2010, Ashot Harutyunyan, the former head of the Charentsavan Criminal Investigative Department, was sentenced to eight years in prison following the death of 24-year-old Vahan Khalafyan from knife wounds while in custody. Human Rights Watch reported recently that two deaths in custody remain unpunished, "World Report 2012: Armenia", 22 January 2012.

¹¹⁰ "President of the Republic of Armenia executive order on approving the 2009-2011 strategic action program for judicial reforms and the list of measures deriving from the program, as well as on establishing a working group", 21 April 2009.

¹¹¹ "Joint Staff Working Paper Implementation of the European Neighbourhood Policy, 2010 Country Report Armenia", European Commission, EU high representative (Foreign and Security Policy), COM (2011)/303, Brussels, 25 May 2011.

¹¹² "Draft Law on RA Legal and Judicial Reforms 2012-2016 discussed", website of the National Assembly, 20 January 2012. Crisis Group interviews, legal experts, Yerevan, February 2012.

¹¹³ Crisis Group interviews, legal expert, Yerevan, February 2012.

¹¹⁴ Crisis Group interviews, politicians, legal experts, February, May 2012.

¹¹⁵ "Zhoghovurd: Armenian ombudsman's office: 387 calls, one answer", Tert, www.tert.am, 29 February 2012.

¹¹⁶ In 2011, there were 36 deaths among the 46,864 active members of the armed forces by all causes, including hazing, suicides, and natural causes. "Hazing could subvert military reform in Armenia", Oxford Analytica, 3 February 2012. The defence ministry has initiated a legal awareness campaign, including OSCE-conducted human rights seminars.

¹¹⁷ "Institut prav cheloveka I demokratii nazval novyj zakon o CHP v Armenii damoklovym mehom" [Institute for human rights and democracy called the new emergency law in Armenia the sword of Damocles], Panorama, www.panorama.am, 16 April 2012.

¹¹⁸ Crisis Group interview, political analyst, Yerevan, February 2012.

Since 2005, the military has undergone significant reforms as part of Armenia's Individual Partnership Action Plan (IPAP), a set of programs designed to provide assistance on reforms with NATO, despite the decision not to seek membership in that alliance and the official alignment with Russia in the Moscow-led Collective Security Treaty Organisation (CSTO). NATO officials say that Armenia has successfully undertaken more recommended reforms than Azerbaijan and even alliance-aspirant Georgia¹¹⁹ and attribute this to the region's "tough security environment".¹²⁰ The defence budget increased 5.6 per cent in 2012, to \$400 million. Heavily reliant on Russia for discounted or subsidised weapons, the country is developing an indigenous capability to produce weapons systems, such as the unmanned aerial vehicle (UAV) "Krunk" it unveiled in 2011.

The military has been brought increasingly under civilian control, although the defence minister is still a career army officer. Since 2007, employment in the ministry has been fully open to civilians, and two of the minister's key deputies are now civilians. A "Code of Conduct on the Political-Military Aspects of Security" gives parliament some oversight powers.¹²¹ The OSCE also has programs to develop cooperation with the military. In general, however, oversight remains comparatively weak, and there has been little domestic pressure to increase transparency due to the de facto state of war with Azerbaijan.

The political influence of the "Karabakh" clan – essentially a group linked by their experiences in the most active years of that war – has waned recently, but such credentials are still a plus in the military hierarchy. Powerful members include Yuri Khachaturov (the chief of staff) and Mikhail Harutyunyan (the inspector general) and are considered among the most resistant to reform, openly displaying resentment at changes that could be interpreted as undermining their power.¹²² Meanwhile, corruption in the armed forces remains a serious concern.¹²³

E. MEDIA

Although media freedoms have slightly improved since the 2008 political crisis, a broad lack of diversity among

major outlets and a lack of equal access for dissenting voices remain serious issues.¹²⁴

90 per cent of the public says television is its main source of news.¹²⁵ Among the five country-wide TV broadcasters, there is limited variety. The main government network, H1, rarely features programs critical of the government, while the ruling Republican Party and its former coalition partners, Prosperous Armenia and the ARF-D (Dashnaks), have their own heavily editorialised channels.¹²⁶ ARF-D also runs "Yerkir media", which focuses on party positions but makes more of an effort to uphold relatively independent editorial policies. More diverse viewpoints may be broadcast now that Prosperous Armenia and ARF-D have left the governing coalition.

The last independent national TV broadcaster, A1+, was forced off the air in 2007. The European Court of Human Rights ordered that it be allowed back the next year,¹²⁷ but the government ignored the decision, arguing that no more licences were available. A1+ is now relegated to the internet. There are a number of smaller, private channels in Yerevan and other cities and towns, but almost all are owned by politicians and major entrepreneurs, or are associated with the authorities.¹²⁸ The exception – independent "GALA-TV", in the northern town of Gyumri – has faced constant problems with the authorities since 2007.¹²⁹ Pursuant to allocations made in 2010, it is slated to lose its licence in 2015.¹³⁰

The internet, regularly used by close to half the population,¹³¹ is not officially regulated, though during the 2008

¹¹⁹ Crisis Group interview, NATO official, Brussels, October, 2011.

¹²⁰ Crisis Group interview, military official, Yerevan, February 2012.

¹²¹ Simon Schmidt, "NATO and the South Caucasus: an analysis of cooperative activities within the IPAP framework in the South Caucasus partner countries", policy brief, International Center for Human Development, 26 January 2012.

¹²² "Hazing could subvert military reform", Oxford Analytica, 3 February 2012.

¹²³ "RA Human Rights Defender: Annual Report 2011", Office of Human Rights Defender, p. 144.

¹²⁴ In 2011, Reporters without Borders elevated Armenia from 101st to 77th of 178 in its Press Freedom Index, and the IREX Media Sustainability Index for Europe and Eurasia gave it a 2.09 score on a scale of zero to four (four being optimal).

¹²⁵ "Armenia 2011 Media Public Opinion and Preference Survey", Presentation by CRRC-Armenia, July 2011.

¹²⁶ Crisis Group interviews, journalists, political analysts and media experts, December 2011, February 2012.

¹²⁷ *Meltex ltd vs. Republic of Armenia*. "Media Landscapes of Eastern Partnership countries", Yerevan Press Club, 2011, p. 9.

¹²⁸ Crisis Group interviews, media expert, Yerevan, May 2012. See also "Media Landscapes", op. cit.

¹²⁹ GALA's difficulties began in late 2007 when it carried a speech by former ex-president Ter-Petrosian before he announced his 2008 presidential candidacy. After an aggressive audit, it was charged AMD 26 million drams (\$85,000) in back taxes, fines and late fees. "2010 Human Rights Report – Armenia", U.S. State Department, April 2011, p. 33. Its bank accounts were frozen, its equipment seized and advertisers pressured to cease business with it. "Freedom of the Press 2011", Freedom House.

¹³⁰ "Armenia 2011: Without Illusions", op. cit, p. 33.

¹³¹ According to government figures, there are 45 internet subscribers per 100 persons. "Address by the president at the thirteenth Republican party convention", op. cit.

protests and violence, the government blocked access to websites. The public increasingly trusts online sources.¹³²

Although the print media is essentially free and reflects a wide variety of opinions, its influence is minor compared to TV, and many newspapers are deeply partisan or mouthpieces for political parties or interest groups. Only 13 per cent of Armenians say they regularly buy newspapers, although many more might read one.¹³³ Some print outlets have faced harassment through defamation lawsuits filed by political or business elites. Compensation ordered by courts often is a burden for newspapers none of which have circulations of more than 8,000.¹³⁴ 40 cases have been brought since 2010, with a total of \$35,000 awarded in damages. However, a 2011 Constitutional Court recommendation that local courts not use financial penalties and seek redress through other means seems to have had an effect. Courts currently tend to require that papers print retractions rather than pay compensation.¹³⁵

Open harassment of journalists has decreased. The former editor-in-chief of *Haykakan Zhamanak*, Nikol Pashinyan, was released in February 2012 after serving half his original term for inciting violence in the 2008 demonstrations, a charge many say was politically motivated. Though the situation seemed improved during the 2012 elections, there have been no meaningful measures to punish government or police officials who harassed or physically attacked journalists during the 2008 presidential and 2009 Yerevan municipal elections.¹³⁶

IV. EXTERNAL INFLUENCES

More than two decades of conflict with Baku have choked off traditional trade routes through Azerbaijan and Turkey.¹³⁷ Key energy infrastructure and transport projects that by geographic logic might have included Armenia, such as the Baku-Tbilisi-Ceyhan pipeline and the Baku-Tbilisi-Kars railway, were circuitously routed via Georgia. Armenia relies on a single precarious mountainous road to Iran and three sub-standard highways and a railway via Georgia for 70 per cent of its trade. The isolation is a major brake on development.

Russia remains the strategic ally and partner on which the country relies heavily for military, economic and energy support. Moscow recently renewed its lease on a military base in the town of Gyumri until 2044. The base agreement was modified to include guarantees against general threats to Armenian security but does not fully clarify Russian military obligations in the event of a war. Moscow is widely acknowledged to provide significant discounts on weapons sales due to bilateral agreements and Armenia's membership in the Moscow-led CSTO.¹³⁸ Russia nonetheless also sells significant amounts of high-end military hardware to Azerbaijan, albeit at what are believed to be market prices.¹³⁹ Some Armenian analysts try to explain this apparent paradox as an attempt to keep a "balance of

¹³² "Armenia 2011: Without Illusions", op. cit., p. 34

¹³³ "People do not have money; one person buys [a newspaper], then everyone else in the building take turns to read it, or tell each other without the others reading. Those who can read well will read and then start retelling to the rest", Crisis Group interviews, media NGO, Yerevan, December, 2011; "Alternative Resources in Media, Armenia", CRRC, 2011.

¹³⁴ In June 2011, the opposition newspaper *Haykakan Zhamanak* was put in serious financial straits by an order to pay Robert Kocharyan some \$8,250 for articles implicating him in allegedly corrupt business deals during and after his presidency.

¹³⁵ Crisis Group phone interviews with a media analyst, Yerevan, March 2012.

¹³⁶ "2010 Human Rights Report", op. cit., p. 30.

¹³⁷ Opinions vary widely on how reopening of the Turkish border would impact Armenia's economy. Some pro-government politicians and businessmen argue that integration into regional transportation and trade networks would greatly help the economy. Others, especially those controlling lucrative monopolies, fear a border opening would be detrimental to their business and to local production that is generally not believed to be as competitive as Turkey's. In 2011 Armenian exports to Turkey were just \$1 million; imports from Turkey totalled \$240 million. Regular airline flights and bus routes operate between Yerevan and Istanbul, and visas are easily obtainable for citizens of both countries upon arrival. Armenian-Turkish joint stock companies operate in Armenia, and many shops sell Turkish goods. See Mher Bagramyan, "The Economic Impact of Opening Armenian-Turkish Border", Armenian International Policy Research Group, Armenia, 2012.

¹³⁸ Armenia's military budget for 2012 is AMD 150 billion (\$400 million). For more on Armenian-Russian military cooperation, see Crisis Group Briefing *Armenia and Azerbaijan: Preventing War*, op.cit.

¹³⁹ Ibid. Russian foreign minister Sergei Lavrov dismissed Armenian concerns over the sales, saying that missiles are "defensive weapons designed to protect territory from external missiles". Richard Giragosian, "Is Armenia Russia's partner or pawn?", RFE/RL, 3 September 2010.

forces” between the two enemies,¹⁴⁰ but the motivations are more likely financial.

Russia is home to the largest Armenian diaspora and is also Armenia’s largest trading partner, exporting \$700 million worth of goods in 2011 (and importing just \$159 million).¹⁴¹ Russian businesses and state-dominated conglomerates have invested more than \$3 billion in Armenia since independence, including 55 per cent of foreign direct investment in 2011. Russian firms have bought up about 70 per cent of the energy infrastructure, including shares in thermal and hydroelectric power plants and the domestic gas import and distribution network. United Energy Systems (RAO UES) manages the Metzamor nuclear power plant, which provides over 40 per cent of the country’s electricity, and a Russian company is slated to build a new nuclear plant.¹⁴² Moscow sells Armenia natural gas at \$180 per thousand cubic metres, a fraction of the average \$390 it charges Western European customers.¹⁴³

While the government knows Russia expects political loyalty from its lone South Caucasus ally, it in fact conducts a “multi-vector” foreign policy that includes strengthening ties with Euro-Atlantic institutions and other countries. Prime Minister Tigran Sargsyan took the unusual step recently of publishing an extensive article in a Russian newspaper explaining why Armenia had not yet joined Russia’s “Customs Union”, like Belarus and another Moscow CSTO ally, Kazakhstan, and prioritises negotiating a “deep and comprehensive free trade agreement” with the EU.¹⁴⁴

The EU, which has allocated more than €157 million in assistance for 2010-2013,¹⁴⁵ and the U.S. are slowly increasing their influence as development models.¹⁴⁶ Arme-

nia participates in the EU’s Eastern Neighbourhood Policy (ENP) and the Eastern Partnership initiative; the EU Advisory Group advises the government on reforms, most importantly on approximation of standards and practices. In September 2011, Prime Minister Tigran Sargsyan put forth “a new agenda for reforms”, with 33 points to bring the country closer to EU standards in a range of areas (economic, judicial and public service). In early 2012, Armenia and the EU launched talks on visa facilitation and re-admission, and they will soon begin negotiations on the above-mentioned free trade agreement.¹⁴⁷ The third round of the EU-Armenia human rights dialogue was held in December 2011.¹⁴⁸

Nevertheless, a European Commission review of the ENP found “EU support to political reforms in neighbouring countries [including Armenia] has met with limited results”.¹⁴⁹ EU assistance has focussed on structural reforms but not done enough to encourage “deep democracy”. To foster democratisation more effectively, the European Commission should link ENP benefits to government performance and reform. It should stress partnership with societies, not only providing the bulk of its funding and technical assistance to governments. Indeed, new tools designed to give more support to civil society – the European Neighbourhood Program Initiative (ENPI) Civil Society Facility and European Endowment for Democracy – are gradually being rolled out in the region.¹⁵⁰ Implemented properly in Armenia, such adjustments might increase the number and influence of stakeholders working and supporting the government to enact reform, especially in the judicial system.

While the EU has tended to be timid in its public criticism of political developments,¹⁵¹ the U.S. took a stricter line in 2009, when its Millennium Challenge Corporation

¹⁴⁰ Crisis Group interviews, military analysts, Yerevan, February 2012.

¹⁴¹ “Foreign trade of Russian Federation with the CIS countries”, Rosstat, http://www.gks.ru/bgd/regl/b11_12/IssWWW.exe/stg/d02/26-06.htm, Naira Hayrumyan, “Armenia-Russia: strategic cooperation and mutual assurances of loyalty”, Armenia Now, www.armeniannow.com, 10 February 2012

¹⁴² Armenia signed an agreement with the EU to close Metzamor by 2016, as it cannot be upgraded to meet internationally recognised nuclear safety standards.

¹⁴³ “Natural gas prices for Armenian consumer not to be revised upward any time soon: minister”, Arka news agency, 16 February 2012. “Gazprom adjusts gas process for European companies”, Reuters, 17 January 2012.

¹⁴⁴ The prime minister wrote that the EU agreement is “aimed at putting the economy through “significant structural reforms”. Tigran Sargsyan, “Armenia smotrit na Evropu” [Armenia looks to Europe], *Vedomosti*, 16 May 2012 (op-ed).

¹⁴⁵ European Partnership and Neighbourhood Instrument – Armenia – National Indicative Programme 2011-2013, p. 5.

¹⁴⁶ While backers of President Sargsyan say his government “looks to the West” for new ideas, not just financial assistance – critics say its tactic is to change just enough to keep the inter-

national community “interested”, Crisis Group interview, diplomat, Yerevan, May 2012.

¹⁴⁷ See information on ENP package at http://ec.europa.eu/world/enp/docs/2012_enp_pack/delivering_new_enp_en.pdf.

¹⁴⁸ “EU-Armenia Human Rights Dialogue, 6 December 2011”, joint press release, European External Action Service, 6 December 2011.

¹⁴⁹ “Joint communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions A new response to a changing Neighbourhood”, High Representative for Foreign and Security Policy and EU Commissioner for Enlargement and European Neighbourhood Policy, 25 May 2011.

¹⁵⁰ Further efforts to engage actively with civil society in neighbouring countries take place under the Eastern Partnership; the Eastern Partnership Civil Society Forum, instigated and initially funded by the European Commission, is such an endeavour.

¹⁵¹ The ENP Progress Reports on Armenia are a case in point. They are much less critical than those issued for countries awaiting full accession, such as those in the Western Balkans.

compact (MCC) placed a hold on funding for a significant portion of a massive rural road rehabilitation project because of concerns about the 2008 presidential election.¹⁵² This cost Armenia \$67 million, though \$177 million for irrigation and other technical programs was not affected.¹⁵³

No new MCC funding is expected unless the government addresses rule of law, governance and corruption concerns.

U.S. assistance and ties with Armenia do not seem to be affected by Iran's significant commercial interests in the country. Iran is a strategically important, if often invisible, neighbour with whom Yerevan keeps a precarious balance between bilateral cooperation and adherence to UN sanctions.¹⁵⁴ It has adopted a law controlling export and transit of dual-use goods, including nuclear and radioactive materials, but its banks and financial institutions are likely to come under more scrutiny to prevent any attempt to use them to circumvent sanctions.¹⁵⁵ Bilateral trade is currently about \$300 million, with Armenia running a large deficit. Tens of thousands of Iranian tourists visit, especially during the Novruz holidays, but their numbers are low compared to Europeans.¹⁵⁶

The role of the ethnic Armenian diaspora, often misinterpreted as being politically decisive domestically,¹⁵⁷ has continued to wane.¹⁵⁸ Its recent influence, increasingly diversified and diffused, peaked during discussions on the

proposed 2009 protocols with Turkey, when the president met deep opposition from Armenians in Lebanon and in the U.S. The government has tried to institutionalise state-diaspora relations. A diaspora ministry was established in 2008, but its functions have not been well developed.¹⁵⁹ Even though the diaspora provides significant remittances and other funding,¹⁶⁰ it has not done much to either encourage or stymie reform.

External actors can have only a limited effect in bringing change to Armenia. The EU and the Council of Europe have standards, practices and institutional experience to share but relatively limited leverage, and it is readily apparent that Yerevan often does the bare minimum to maintain a modicum of momentum with Brussels. Armenia plays on the perception that it can always turn back towards Russia if conditions are set that it considers too stringent.

¹⁵² In 2006-2011, the MCC implemented a \$235 million compact with the government to reduce rural poverty through agriculture sector support, including investments in roads, irrigation, and water supply; see www.mca.am/en/overview.

¹⁵³ The MCC compact concluded on schedule in September 2011. U.S. officials said the government must address rule of law, governance and corruption concerns for any renewal. Crisis Group interviews, experts and diplomats, Yerevan, December 2011, February 2012, and Yerevan and Washington, May 2012.

¹⁵⁴ During the August 2008 Russian-Georgian war, Iran was essentially Armenia's only physical connection to the outside world". Iran has also generally had warmer ties with Yerevan than with its majority Shiite neighbour to the north in Azerbaijan. Iranian firms have even invested in the occupied territories of Azerbaijan controlled by Armenia, for instance in a water reservoir in the Zangelan district.

¹⁵⁵ "Iran's row with West affects neighbouring Armenia", Oxford Analytica, 29 March 2012.

¹⁵⁶ Between January and September 2011, Iranians accounted for 8 per cent of all tourists, former Soviet republics 18.7 per cent, the rest of Europe 39.3 per cent and the U.S. 15 per cent. Armenian National Statistical Service communication, 2011.

¹⁵⁷ Few new senior figures from the diaspora have entered government or the political scene since the early 1990s. For previous reporting, see Crisis Group Europe Report N°58 *Armenia: Internal Instability Ahead*, 18 October 2004.

¹⁵⁸ There are ten million ethnic Armenians in the world. Less than three million live in Armenia. The biggest concentrations are in Russia, the U.S., France, Syria, Lebanon, Brazil and Argentina.

¹⁵⁹ Its three main goals are preservation of Armenian language and culture; consolidation of "all-Armenian potential"; and support for repatriation. Crisis Group interviews, diaspora ministry official, Yerevan, February 2012. Approximately 30,000 people availed themselves of the opportunity for dual citizenship that the government created in 2007.

¹⁶⁰ The "Hayastan All-Armenian Fund" has raised and disbursed approximately \$235 million in the past twenty years, from both the diaspora and sources inside the country.

V. THE 2012 PARLIAMENTARY ELECTIONS

The May 2012 parliamentary elections, following the 2008 violence and in the context of renewed tensions with Azerbaijan,¹⁶¹ were widely watched as “crucial for the democratic development of the country”¹⁶² and “an important benchmark on Armenia reform’s path”,¹⁶³ as well as for their potential for “enhancing Armenia’s international standing and cementing bilateral ties with the U.S., the EU and the West”.¹⁶⁴ International attention and pressure to conduct free and fair polls were unprecedented.¹⁶⁵ President Sargsyan and senior government officials themselves raised expectations, declaring they would be “the cleanest in Armenia’s history”; many hoped they would lay the ground to speed reforms.¹⁶⁶ Most importantly, they were seen as an indication of how the 2013 presidential election would be conducted.

The vote took place under a new electoral code, adopted a year earlier largely in response to the fallout from the 2008 violence. The Council of Europe’s Venice Commission and OSCE/ODIHR jointly concluded that the code “could provide a good basis for democratic elections, if implemented fully and properly”.¹⁶⁷ Local and internation-

al observers pointed to several positive tendencies. The Central Electoral Commission (CEC) smoothly registered over 1,100 candidates, representing fifteen parties and one electoral bloc, for the 131 parliamentary seats.¹⁶⁸ In comparison with previous elections, a relatively small number of political parties contested the elections, possibly in a sign that the country’s political party system is maturing.¹⁶⁹

The campaign was “competitive, vibrant and largely peaceful. Freedoms of assembly, expression, and movement were generally respected and candidates were, for [the] most part, able to campaign freely”. The main opposition parties, including former president Ter-Petrosian’s ANC, freely held rallies and met with voters, including outside of Yerevan in areas tightly controlled by the ruling party. TV gave access to all major parties, but many key politicians avoided televised debates, and the outlets often shied away from detailed coverage, preferring to broadcast the same footage used in paid promotional advertisements.¹⁷⁰

For the first time the main opposition parties (Prosperous Armenia, the ANC and ARF-D) created an inter-party Centre for Public Oversight of the Elections to monitor the process. Websites were employed to monitor and expose violations, though they did not seem to result in many official investigations. Parties used social networking sites to expose their opponents’ perceived misdeeds. The police were more constructive than in the past, employing hotlines for reporting violations; the prosecutor general’s office did the same and actively double-checked complaints and allegations in the press.¹⁷¹

The voters lists were deeply suspect from the start. The CEC initially said 2,485,000 were eligible to vote – an increase of 165,000 since 2010 – despite the fact that Armenia’s population is in a steep decline – down, according to

¹⁶¹ Between 27 April and 20 June, at least eight Armenian soldiers and seven Azerbaijani soldiers were killed in battles that marked a new and a worrying trend, as most were concentrated along the northern border, close to Georgia, rather than in the vicinity of the heavily fortified trenches along the line of confrontation around regions of Azerbaijan occupied by Armenian forces. Sourcing based on ICG’s own review of official casualties. See also Milaz, www.milaz.info and RFE/RL, 27 April; 6 and 19 June 2012.

¹⁶² “Report on the Functioning of the Democratic Institutions in Armenia”, PACE, *op. cit.*

¹⁶³ “Statement by [European Commission] President Barroso following his meeting with Mr Serzh Sargsyan, President of Armenia, 6 March 2012”, press release, EUROPA press point Brussels, 6 March 2012.

¹⁶⁴ “Remarks”, Ambassador John Heffern at the Free and Fair Elections Conference, U.S. Embassy News, 23 March 2012.

¹⁶⁵ Crisis Group interviews, political analysts and civil activists, Yerevan, May 2012.

¹⁶⁶ Crisis Group interviews, political analysts, journalists, Yerevan, December 2011, February 2012, May 2012.

¹⁶⁷ They found that the code’s improvements included a shift to a non-partisan model in the composition of election commissions and strong limitation of the president’s discretion in appointing the Central Election Commission; quotas for women on election commissions; clarification on what help could be given voters in polling stations; a judicial remedy for all electoral disputes; and a broader definition of what might be cause for an election to be invalidated. However, additional steps were needed for full compliance with OSCE commitments: removal of excessive restrictions on candidacy rights; assurance of a

separation of state and party/candidate structures; allocation of seats to marzes (regions); critical assessment of new voting technologies for voters abroad; improved provisions for the count and tabulation process, including determination of results; and better complaint and appeal procedures. “Joint Final Opinion on the Electoral Code of Armenia”, Strasbourg, 26 May 2011.

¹⁶⁸ “Interim Report 1, 22 March-2 April 2012”, OSCE/ODIHR Election Observation Mission, parliamentary elections, 6 May 2012.

¹⁶⁹ Crisis Group interviews, political analyst, Yerevan, May 2012.

¹⁷⁰ “Statement of Preliminary Findings and Conclusions, International Election Observation, Republic of Armenia – Parliamentary Elections, 6 May 2012”, International Elections Observation (IEO), pp. 1, 9. The statement was made jointly by the OSCE/ODIHR, OSCE Parliamentary Assembly, CoE Parliamentary Assembly and the European Parliament.

¹⁷¹ *Ibid.*, p. 7.

official figures, by 415,000 over the past ten years.¹⁷² On election day, 62 per cent were officially declared to have voted.¹⁷³ Opposition parties and international observers argue that the numbers of eligible and actual voters were inflated.¹⁷⁴ These suspicions grew when the Constitutional Court refused an appeal by opposition parties for the protocols listing the names of those who allegedly voted to be published.¹⁷⁵

Some pre-election practices were also widely criticised. For example, parties plied voters with handouts, from tractors to jam, eyeglasses and potatoes. Vote-buying was widely acknowledged to be rampant on election day, with payments ranging from AMD 5,000 (\$13) to about AMD 20,000 (\$52).¹⁷⁶ Though ballot box stuffing and multiple voting seemed much less widespread, instances in which supposedly indelible ink used to prevent the casting of multiple ballots disappeared after only a few minutes contributed to a “general lack of confidence in the integrity of the process”.¹⁷⁷

The possibility of a thorough review of electoral violations was dealt a major blow when the CEC summarily dismissed all voter and candidate complaints, meaning they could only be addressed via the little-trusted judicial system. This reinforced the image that the electoral system was still dysfunctional and essentially subject to the whims of the authorities.¹⁷⁸ Thus, while the chief European Parliament election observer, Krzysztof Lisek, spoke in mostly upbeat tones, the 2012 elections largely failed to build trust in the political process.¹⁷⁹ Vote-buying, the abuse of administrative resources and a wholly deficient appeals process remain obvious areas for improvement.

The ruling Republican Party was the obvious big winner. With 69 of the 131 seats, it again holds a majority in the National Assembly. Nonetheless, its increasingly estranged former junior coalition partner, Prosperous Armenia, increased its seats from 26 to 36. This left Sargsyan and the Republicans in a strong if less favourable position than previously, when with its allies, it had a two-thirds majority sufficient to amend the constitution.

Despite complaints and irregularities, the election essentially produced “something for everyone”,¹⁸⁰ thus muting major outrage. Former president Ter-Petrosian’s ANC re-entered parliament after more than a decade’s absence, gaining seven seats. Other parties, like Orinats Yerkir (Country of Laws), led by the head of Armenia’s National Security Council, Artur Baghdasarian, and part of the government coalition, won six seats. The opposition Heritage Party won five and the ARF-D six seats. These last three barely passed the threshold (5 per cent of the vote) to qualify for representation.

Even though the ANC decried the elections as “fraudulent”¹⁸¹ and filed a suit with the Constitutional Court to throw out the results, it said it would not boycott parliament.¹⁸² In a lukewarm protest, Ter-Petrosian and the leader of Heritage, Raffi Hovannisian, renounced their individual seats. The return of ANC and break-up of the previous governing coalition could invigorate debate in parliament, even if the Republicans have a clear upper hand. This is especially the case as Prosperous Armenia rejected overtures to rejoin a governing coalition in which it previously held four cabinet portfolios.¹⁸³ It is thus likely to increasingly take on the character of a real opposition and put up its own presidential candidate in 2013. Political conflict could conceivably make some reforms more difficult for President Sargsyan to enact, but it also may give him more incentive to act decisively to win the support of a cynical electorate.

¹⁷² “Armenian elections will probably fail democratic test”, Oxford Analytica, 10 April 2012.

¹⁷³ The police passports and visas department revised the list down to 2,482,238 eligible voters. “Armenian authorities, opposition at odds over how to prevent vote-rigging”, RFE/RL, 29 April 2012.

¹⁷⁴ Crisis Group interviews, diplomatic corps observers, May 2012; “Statement of Preliminary Findings and Conclusions, International Election Observation, Republic of Armenia – Parliamentary Elections, 6 May 2012”, International Elections Observation (IEO), p. 5.

¹⁷⁵ “Was Armenia’s parliamentary election a step backward?”, RFE/RL, 8 May 2012.

¹⁷⁶ Crisis Group interviews, local election observers, Yerevan, 6 May 2012.

¹⁷⁷ “Statement of Preliminary Findings and Conclusions”, IEO, op. cit., p. 9. To correct the problem on election day, the CEC instructed the precinct electoral commissions to use regular ink.

¹⁷⁸ Crisis Group interview, opposition politicians, election monitors, political analysts, May 2012.

¹⁷⁹ “Armenian elections competitive and largely peaceful, but shortcomings undermined confidence in the process, observers say”, OSCE-ODIHR press release, 7 May 2012.

¹⁸⁰ Crisis Group interview, diplomat, Yerevan, 6 May 2012.

¹⁸¹ Naira Hayrumyan, “Vote 2012: parties’ reactions of elections range from ‘fairest ever’ to ‘heinously criminal’”, Armenia Now, 10 May 2012.

¹⁸² Naira Nayrumyan, “Post-election passions: decisions on who goes to parliament and who gives up mandate”, Armenia Now, 14 May 2012.

¹⁸³ The Republicans might slightly strengthen their hold over parliament by forming a coalition with the small Orinats Yerkir party, widely perceived by political analysts as a “pseudo-opposition” ruling party creation. But it is unlikely they can achieve a two-thirds “super majority”. Crisis Group interviews, Yerevan, May 2012.

VI. CONCLUSION

Armenia is in the middle of a crucial electoral cycle in which more is at stake than who will be the next president. The 2012 parliamentary elections showed that if there is political will, electoral practices can be improved. However, they also clearly exposed deep deficiencies that need to be remedied if the 2013 presidential election is to lessen the legitimacy deficit that has handicapped successive governments.

President Sargsyan has a window in which to implement much needed electoral, governance, and economic reforms. Thus far, he has showed willingness to take up potentially unpopular causes, such as normalisation of ties with historic foe Turkey. The government faces serious problems of growing poverty and high emigration. These problems are exacerbated by the resistance to reform of vested interests, corruption and the citizenry's increasing scepticism about the political system.

Tackling these challenges requires dismantling a system dominated by political and economic monopolies and replacing it with a truly competitive one. There have been some good first steps to crack down on rampant corruption, but full implementation remains problematic. It is not enough to fire corrupt officials; offences should be prosecuted. Much stronger oversight is required of the executive, which has virtually unchecked sway over government bodies. The judicial system, seen as lacking real independence, must be reformed and a new criminal procedure code introduced.

President Sargsyan has an opportunity to demonstrate that he can be a statesman and rally supporters to make Armenia a better place in which to live. The international community should assist the government financially and technically if it shows willingness to embark on bold reforms, in deed as well as word. Failure to embrace both immediate and long-term structural reforms, however, would perpetuate the vicious cycle of lack of government legitimacy, an underdeveloped economy and worrying emigration rates that ultimately calls into question the country's capacity to resolve the serious security problems it faces.

Yerevan/Tbilisi/Istanbul/Brussels, 25 June 2012

APPENDIX A MAP OF ARMENIA



Map No. 3762 Rev. 4 UNITED NATIONS
May 2008

Department of Field Support
Cartographic Section