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## *Editorial*

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*Dear readers,*

*with our Special Edition from May 2015 and its first English translation of the Boris Nemtsov Report we had undoubtedly a certain success - with more than 42 million KB downloads within the first two weeks. Thank you, instead of replying individually, for all the nice e-mails and phone calls, and once more thanks to our interpreters. The Special Issue can be downloaded (of course for free) under [www.eufaj.eu](http://www.eufaj.eu).*

*We follow this line in this issue with an unofficial translation of the first part of the Eurasian Economic Union Treaty, which so far seems to exist only in Russian and languages of other contracting parties. The EEU Treaty is an interesting tool to understand - or not? - the (economic) motivation of the CIS countries belonging to the sphere of Russia. We will compare it with the EU in detail in one of the next issues.*

*A large part of this issue is dedicated to Turkey; this was all written before the Turkish elections which brought a sensational result insofar as the Kurdish opposition, and this not restricted to Kurdish citizens, obtained more than 10% which is the threshold in this country (which I find undemocratically high). But we also had to take out an article which analysed Turkish policies dominated by President Erdogan. We better wait the next two, three months and the discussion about the creation of a coalition government. This subject will however be broadly discussed in EUFAJ, at the latest in the next issue.*

*With best regards,*



*Hans-Jürgen Zahorka*

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# *Plurinational Approaches: An overview on Plurinational States in the EU and Consequences for Third Countries*

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**Ofelya Sargsyan**

In the current highly globalized world, states face multifold and multifaceted issues and tasks to face and resolve, among them being terrorism, trafficking, territorial conflicts, economic and financial crises, poverty as well as demands and needs of the governed, such as higher living standards, respect for rule of law, human rights and so on. In this vein, **the challenge for a state is to set the frame – if applied – it is ready and/or can to surrender its sovereignty for the sake of decentralization and integration.**

To this end, the current paper seeks to brief the traditional form of sovereignty, its divergences from the functioning models, new realities and challenges linked to the plurinational states and their governance structures.

## **Democracy and its challenges**

Throughout the history **democracy** has been about establishing and exercising the power and the will of the majority. Yet, it **is an ongoing and non-stoic process and procedure** and has experienced various changes and transformations since its inception. **It is the very** “mode of decision-making about collectively binding rules and policies over which the people exercise control, and the most democratic arrangement to be that where all members of the collective enjoy effective equal rights to take part in such decision making directly - one, that is to say, **which realizes to the greatest conceivable degree the principles of popular control and equality in its exercise...**”<sup>1</sup>.

Hence, in a democratic government the agenda setting, decision making as well as policy implementation should be multifold and complex, with its success and efficacy being dependent on and connected with high level of public involvement and. Citizens are to have the desire and the motivation to participate in the process and the government is to ensure relevant tools, forms, institutions, values as well as knowledge for the public inclusion and participation in the

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<sup>1</sup> Beetham David, *Liberal Democracy and the Limits of Democratization*, Stanford University Press, Stanford, 1993.

governance. Yet, **public dissatisfaction with the existing governance forms and the calls for their reform have become persistent. Among the reasons denoted are social and economic systems, constitutional principles, government institutions as well as infrastructures which limit public participation and their role in government decision-makings<sup>2</sup>.**

More challenges and concerns on democratic governance system, its objectives, principles, standards and institutional set-up come forward with regard to plurinational societies.

### **Plurinational State and Plurinationality as Phenomena**

In the last decades sub-state national societies in various developed democratic states, such as Canada, Spain and the UK, have reiterated their national identity and claimed for its acknowledgement in political and legal terms. Under such auspices **a democratic plurinational state with a sound constitutional basis, represents a multi-level community where the notion “nation” comes to defy sub-state territorial communities** such as Catalonia, Quebec and Scotland and **this not only because of self-determination** of the citizens within these areas, **but also because of the flexibility of these societies as distinct peoples within the plurinational state.**

Plurinational states are unique in terms of historical development which have united various nationals in state buildings in the 19<sup>th</sup> and 20<sup>th</sup> centuries, but within which sub-state nationals have remained and keep their distinctiveness. **Their uniqueness does not lie on their cultural distinctiveness but rather on the fact that they are concentrated on a certain territory, are potentially self-governing and seek certain constitutional recognition<sup>3</sup>. This implies that these societies do not view themselves as internal minorities but as polities which are relational to the state in their capacity and/or potential of exercising the functions that the state carries out for the citizens.**

### **Cases and Models of Plurinational States**

Looking at Western plurinational societies, one can note that some of them, like **Belgium and Switzerland**, constitute of voluntary federation of two or more European cultures. In another case,

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<sup>2</sup> Sargsyan Ofelya & Khachatryan Tsoghik, Participatory Democracy: Some Background Remarks, EUFAJ 4/2014, p. 98.

<sup>3</sup> Tierney Stephen, Tierney Stephen Federalism and the Plurinational Challenge, [http://www.google.de/url?sa=t&rct=j&q=&esrc=s&source=web&cd=158&cad=rja&uact=8&ved=0CEYQFjAHOJYB&url=http%3A%2F%2Fwww.jus.uio.no%2Fenglish%2Fresearch%2Fnews-and-events%2Fevents%2Fconferences%2F2014%2Fwcl-cmde%2Fwcl%2Fpapers%2Fws17%2Fw17-tierney.pdf&ei=p61RVcXqG8GdsgGo\\_4CwBQ&usg=AFQjCNEA8RMBgs4OAtu8P4BwnwLnItavfg&sig2=YPb4Q2XMv1H9HcTqdnqWew&bvm=bv.92885102.d.bGg.](http://www.google.de/url?sa=t&rct=j&q=&esrc=s&source=web&cd=158&cad=rja&uact=8&ved=0CEYQFjAHOJYB&url=http%3A%2F%2Fwww.jus.uio.no%2Fenglish%2Fresearch%2Fnews-and-events%2Fevents%2Fconferences%2F2014%2Fwcl-cmde%2Fwcl%2Fpapers%2Fws17%2Fw17-tierney.pdf&ei=p61RVcXqG8GdsgGo_4CwBQ&usg=AFQjCNEA8RMBgs4OAtu8P4BwnwLnItavfg&sig2=YPb4Q2XMv1H9HcTqdnqWew&bvm=bv.92885102.d.bGg.)

like in Finland and New Zealand, a country has become plurinational because of a forced incorporation of indigenous peoples. In a third model, like in Canada, a plurinational society has been shaped as a result of involuntary inclusion of aboriginal peoples as well as federations of different nationals. Hence, plurinational countries are not identical and do not lack historical discrepancies and challenges. However, to survive and have sustainable security and development, these countries are to shape a plural state which acknowledges and promotes unity and inter-connectivity at all levels of society. Thus, a plurinational state should recognize the presence and co-existence of two or more nations or ethnic groups.

In this vein, **Canada's case** is exemplary. It acknowledges the indigenous peoples that constitute about 3% of the country's population as the country's first nations. The indigenous people also enjoy special terms in the Canadian Constitution. The Constitution encodes not only their aboriginal rights which ensure their participation in all potential constitutional negotiations, but also defines different manners of the existing rights, and this also in the urban areas. Moreover, the Constitution has also proposed the formation of an intercultural juridical system which allows to judge certain crimes committed by indigenous peoples through a collective dialogical procedure based on consensus between the communitarian-tribal leaders and judges of international law. This kind of practice is compatible in collective and individual rights and in law.

In terms of political representation and democratic consolidation, interesting are also **the New Zealand and Nordic countries' experiences**. In New Zealand they have formed so-called "Maori Electoral Option" which enables to register and vote within a Maori list, ensuring a proportional number of seats in the national parliament by this group. In Finland, Sweden and Norway, there is the Saami Parliament which acts as an advisory entity to the state. It has upgraded the Saami influence as well as self-determination in cultural, linguistic, territorial, etc. issues.<sup>4</sup>

### **Classical Sovereignty and its limit in the modern reality: The Challenge of Globalization**

As could be noted from the above briefings, plurinationality is the recognition of a multicultural society in a political federation of a state which acknowledges, respects and encourages equity, equality and solidarity among all the existing peoples and national groups in a state notwithstanding their historical, political and cultural backgrounds. It aims to reform and democratize the state, strengthen the acknowledgment of interculturality as well as consolidate unity in diversity. However, **plurinational state is not to be considered as a threat to a state as a political unity, nor is it to be conceived as a challenge to democracy as a political**

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<sup>4</sup> Walsh Catherine, The Plurinational and Intercultural State, Kult 6 - Special Issue, Epistemologies of Transformation: The Latin American Decolonial Option and its Ramifications, Roskilde University, 2009, [http://www.google.de/url?sa=t&rct=j&q=&esrc=s&source=web&cd=9&cad=rja&uact=8&ved=0CFcQFjAI&url=http%3A%2F%2Fwww.postkolonial.dk%2Fartikler%2Fkult\\_6%2F0H.pdf&ei=FY1MVfnjAoKSsgHNr4G4Ag&usq=AFQjCNHImYVCiLV8bS9LZsucGpL1SZwymg&bvm=bv.92765956.d.bGg](http://www.google.de/url?sa=t&rct=j&q=&esrc=s&source=web&cd=9&cad=rja&uact=8&ved=0CFcQFjAI&url=http%3A%2F%2Fwww.postkolonial.dk%2Fartikler%2Fkult_6%2F0H.pdf&ei=FY1MVfnjAoKSsgHNr4G4Ag&usq=AFQjCNHImYVCiLV8bS9LZsucGpL1SZwymg&bvm=bv.92765956.d.bGg).

**government.** While it differs from a homogenous state, its infrastructures and structures, it is not in contradiction to a unified state as such but rather it intends to reshape them under the criteria of equality, justice and equity.

In line with this, the concept of “sovereignty” of a state is to be observed. Conventionally, the 1648 Peace of Westphalia is associated with the new watershed of nationalism in Europe and redefinition of an independent nation-state. The “*Westphalian sovereignty*” model refers to the “*nonintervention in the internal affairs of other states implying that the domestic authority structures of every state are autonomous or independent; they ought to be determined by indigenous actors within that state.*”<sup>5</sup>

The system envisages sovereignty to be indivisible, one which acknowledges only a single sovereign, power or ultimate authority over a defined territory and people. More recently, in 1933, Article 1 of the Montevideo Convention on the Right and Duties of States reinforced that *a sovereign state is to be comprised of a territory, population and legal infrastructures*<sup>6</sup>. To this end, the double characteristic of a sovereign state is to be noted – it is in its domain of authorities to govern itself and set its own regulations and laws as well as act in accordance with its principles and without external interferences. This kind of approach towards sovereignty is also enshrined in the UN Charter. Namely, Article 2 (4): “*All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state...*”<sup>7</sup> Meanwhile, it is to be acknowledged that the Charter also calls for human rights, respect for rule of law and protection of basic freedoms, thus enabling external interference and deployment of international machinery in the domestic affairs of a state.

Meanwhile, with the international system being in perpetual development, the understanding and insight of the notion of “sovereignty” has also experienced certain transformations. As such, **total sovereignty is an outdated idea in modern international system for numerous reasons – globalization, economic interdependence, international crime, international terrorism, environment-related issues, to name the least. Common interests have provoked higher levels of interdependence, partnership and cooperation.**

From the traditional model of sovereignty the states have been opting more and more for decentralization, regional and global governance as well as cosmopolitan law. The international governance is increasingly being linked to such phenomena as interaction, cooperation, integration, harmonization rather than separation, autonomy, defined territories and legislations.

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<sup>5</sup> Krasner Stephen D., *The Exhaustion of Sovereignty: International Shaping of Domestic Authority Structures*, Institut du Développement, Paris, April 2003, <http://www.iddri.org/Evenements/Conferences/krasner.pdf>.

<sup>6</sup> Montevideo Convention on the Right and Duties of States, Montevideo, 1933, <http://www.idpsrilanka.lk/Doc/International%20Human%20Rights%20Instruments/Montevideo%20Convention%20on%20the%20Rights%20and%20Duties%20of%20States.pdf>.

<sup>7</sup> Charter of the United Nations and Statute of the International Court of Justice, San Francisco, 1945, p. 3, <http://treaties.un.org/doc/Publication/CTC/uncharter.pdf>.

Thus, **with the emergence and evolvement of new global trends, laws and systems, the world is undergoing a post-sovereign era which presupposes cosmopolitan legal structure and systems as well as one global society.** Once distant regions are interlinked through trade, communication technologies and easy travelling. Globalization has diminished barriers and state boundaries. As a result of which states are undergoing adjustments and adoption of new norms, traditions and systems which is a social element describing the internal legitimacy of a state as well as its approach to other players. Moreover, the role of a state in ensuring human security can by no means be undermined in the current understanding of sovereignty, i.e. a state is to guarantee the security and safety of its peoples.

Thus, while on the one hand the model of unlimited authority of sovereignty is eroded, on the other hand it is linked to ensuring the survival and wellbeing of its population. As such, with regard to internal sovereignty, a state shall guarantee domestic economic growth, security, democratic infrastructures, rule of law, etc. As for the external sovereignty, from the responsibility perspective, a state is to demonstrate other states its capacity to ensure safe and secure environment for its population. Thus, considering **sovereignty as a responsibility**, it can be concluded that it **envisages trust of its own population and respect by external actors.** After all, *states are no longer “sovereign” in the traditional sense, but more and more in interactions with other states or their neighbours, or part of integration.* Of course, this does not replace the traditional system, but step by step by objective (technological, transportation facilities, etc.) reasons and by subjective ones (i.e. by the voluntary opening up of a state), a parallel system emerges<sup>8</sup>.

### **Challenges of Plurinational States in Post-sovereign Order**

Traditionally the institutional solutions for countries with diverse nations have been the following: a) federalism, including federations, confederations and regional states, b) consociationalism that is institutions and processes that are based on consensus between majorities and permanent national minorities within a state, e.g. in Belgium and Switzerland where the model is in conjunction with federal forms and c) secession<sup>9</sup>. And while in plurinational states there are also claims to sovereign authority, but this is not necessarily in the old exclusive manner of the nation-state, but to a sufficient degree to constitute themselves a subjects and not objects of constitutional debate. Usually this is expressed as a demand for self-determination, meaning not necessarily the

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<sup>8</sup>Zahorka Hans-Jürgen & Sargsyan, Ofelya, Alternative Models of Sovereignty in Practice, pp. 207-221, in: What Kind of Sovereignty? Examining Alternative Governance Methods in the South Caucasus, 8th Workshop of the Study Group Regional Stability in the South Caucasus, Published for NATO PfP, Vienna, 2014.

<sup>9</sup>Requejo Ferran, Improving the Quality of Liberal Democracies in Plurinational Contexts, Catalan International View, <http://www.google.de/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCcQFjAA&url=http%3A%2F%2Fwww.international-view.cat%2FPDF%2FCIV16%2Fciv%252016%2520Ferran%2520Requejo.pdf&ei=2J9xVZuXOIqfsgGnu4CIBw&usg=AFQjCNG9-qFsc7OC7Fu-nS2MJ6kaYqeKw&bvm=bv.95039771,d.bGg>.

right to establish their own state, but the demand to negotiate their own position within the emerging state and transnational order<sup>10</sup>.

So in the United Kingdom, Spain, Belgium and France, we see strong nationalist movements with substantial public support, none of which is seeking a state on traditional lines. Quebec nationalists have consistently linked their demand for ‘sovereignty’ with support for continued links to the rest of Canada. Flemish nationalists tend to support secession only in so far as they can be absorbed into a tighter European union and have been prone to federalist and confederalist solutions. Catalonia’s dominant coalition, *Convergència i Unió* is quite forthright in rejecting independence and ties this to a historic vision of Catalonia before 1714 as a self-governing trading nation within the Crown of Aragon, linked to Spain and operating in the wider Mediterranean and European arenas. Even the more independence-minded *Esquerra Republicana de Catalunya* wants separation from Spain only when a European federation is in place while at the same time also looking to confederal solutions. Basque nationalists tend to be more separatist but are still mostly in favour of a post-sovereign order similar to the Catalan vision. The most classically statist is the Scottish National Party, which seeks independence within the European Union, but even it is divided between those who want full statehood and a post-sovereignist wing. The Welsh nationalist party, *Plaid Cymru*, has eschewed independence in favour of Welsh self-government within the emerging European order. Public opinion in these places generally follows a similar line, refusing to make a hard and fast distinction between home rule and independence, favouring more self-government but not interested in taking on all the classical functions of statehood, such as defence and security or monetary autonomy<sup>11</sup>.

The justifications for their demands are based on two grounds, which are not always deployed together or, where they are, not always in a consistent manner. The reasons are that the nations consider themselves as historically constituted nations with original rights which were never surrendered to the state; and that they are a self-conscious community expressing a democratic demand. So one leg of the argument rests in the past and the other in the present. As such, the Basque nationalists argue that their historic rights – *fueros*, are original and do not derive from the Spanish constitution of 1978. The Scottish nationalist claim that Scotland did not surrender its total sovereignty to a Unitarian British parliament in 1707. For the Quebeckers Canada is a unity of founding nations hence they have the right for self-determination. The arguments in the United Kingdom, Spain and even Canada or Belgium, are not about cultural divergences. Language discrepancies are being resolved public policy and variants of bilingualism. Social values in the

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<sup>10</sup> Keating Michael, *Sovereignty and Plurinational Democracy*. Problems in political science, 2003, pp 191-206.

<sup>11</sup> Keating Michael, *Plurinational Democracy in a Post-Sovereign Order*, Queen’s Papers on Europeanisation, No 1/2002,

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constituent nations of these states do not diverge but rather converge. Neither is religion a source of conflict. The problem is rather in the boundaries of political community.<sup>12</sup>

Hence, **the challenges and questions to address in plurinational societies have been the constitutional recognition and the institutional set-up of the polity and the self-government of minority national entities.** While in the uninational societies, constitution refers to the **shared standards** which are connected with common values rights and responsibilities, **in the case of constitution in plurinational states, it is about living with diversity** which refers not just to a cultural diversity but the basis for nation, its legitimacy and political community.<sup>13</sup> Referring to the stateless nations like Quebec, Catalonia, Flanders, the Basque Country or Scotland, it is worthwhile that there are here overlaps, as seen, between globalization and national pluralism which becomes significant in the face of supra-state level, e.g. European citizenship. Thus, **self-determination has ceased in this sense to imply secession and separate statehood establishment and claims for statist but rather new political orders and systems, connecting their project with transnational integration and in Europe within the EU.** Globalization and European integration have provoked redefinition of political order and sovereignty of a state.

### Plurinational State Governance

Requejo suggests that “Plurinational democracies are political collectivities containing two or more internal nations that aspire to be recognized and accommodated politically as such within political and constitutional rules. They, therefore, are not uninational realities with “regional” subunits that belong to a single national demos. They are “different societies” (in the sense that they display distinctive features and express a desire to be distinguished from other societies). It is more correct here to speak of a plurality of demoi than of a single demos (although the latter may describe itself internally as “plural”). **The general challenge of plurinational democracies is one polity, several demoi**”<sup>14</sup>.

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<sup>12</sup>Requejo Ferran, *Federalism and the Quality of Democracy in Plurinational Contexts: Present Shortcomings and Possible Improvements*, Grenoble, 2001,

[http://www.google.de/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCEQFjAA&url=http%3A%2F%2Fwww.raco.cat%2Findex.php%2FREAFAF%2Farticle%2Fdownload%2F262523%2F349739&ei=FnlxVZSDMcewsQGQu4KYCQ&usg=AFQjCNGXQTgTO8I7ScFA6Uw\\_r\\_BJYSIDWA&bvm=bv.95039771.d.bGg](http://www.google.de/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCEQFjAA&url=http%3A%2F%2Fwww.raco.cat%2Findex.php%2FREAFAF%2Farticle%2Fdownload%2F262523%2F349739&ei=FnlxVZSDMcewsQGQu4KYCQ&usg=AFQjCNGXQTgTO8I7ScFA6Uw_r_BJYSIDWA&bvm=bv.95039771.d.bGg)

<sup>13</sup>Keating Michael, *Rethinking Sovereignty. Independence-lite, devolution-max and national accommodation*, 2012.

<sup>14</sup>Requejo Ferran, *Revealing the Dark Side of Traditional Democracies in Plurinational Societies. The Case of Catalonia and the Spanish “Estado de las Autonomías”*, Political Theory Working Paper Número 04, Universitat Pompeu Fabra, Barcelona Novembre 2009, p. 7,

<http://www.google.de/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CCEQFjAA&url=http%3A%2F%2Fm.repositori.upf.edu%2Fbitstream%2Fhandle%2F10230%2F5182%2FGRTPwp4.pdf%3Fsequence%3D1&ei=ROFfVbbEB8OTsgG6-oDOBg&usg=AFQjCNG1KDSTs6n01SAJ7VmEJolMqhgy8A&sig2=vGO4Xfl1b501SLOmrkiAvw&bvm=bv.93990622.d.bGg>

**A plurinational democratic state, thus, implies an exclusively democratic post-sovereign state** which recognizes the power of the elected peoples, taking into account their specifics, within a unitary state. As such, **a plurinational state is to be polycentric, i.e. highly decentralized.** However, this can by no means be perceived as a weakening phenomenon for a state but rather there should be a decentralized state **with diverse societies.** Thus, it is to protect the societies that reside in it and establish an intensive and complex relationship with them. Furthermore, it should form such a legal and institutional framework that will ensure efficient equality of diverse nationals. Hence, **the plurinational democratic state building and functioning implies a unitary and decentralized governance system where diverse societies coexist peacefully.**

The model prioritizes public participation, social cohesion, territorial integration, recognizes all the people and diversity in societies which should be as a fundamental constituent of a society through intercultural learning which will promote cosmopolite perceptions as well as knowledge of cultural practices. Cultural interactions can be most efficient and sound among equals, and this also in economic terms since economic inequality is connected with social exclusion, discrimination and segregation. Accordingly, to **have a plural, democratic society three aspects are to be considered; a) socio-economic to secure equality, b) political to ensure certain changes and adjustments in the governance system c) socio-cultural where differences are recognized and which enables intercultural learning.**

The territories of such a state are to be perceived as areas with certain functions designed to encourage equal opportunities, equitable access to basic utilities, health, education, nutrition, housing, etc. which implies establishing regional structures that promote the states' development. This kind of approach favors a national polycentric governance state which aims to strengthen domestic integration and interconnectivity, promote production, research and innovation, science and technology taking into account each territories' capacities and potentials. There should be social networks. Moreover, the territorial perspective has both internal and external aspects. On the one hand it presents that state as strategically established and sovereign in the world and encourages decentralization and deconcentration of government which contributes to the (re)distribution of authorities and democratization of the state. Thus, **the state peruses a new territorial organization system – the region, the key function of which is to serve as a planning bridge between the national and local levels.** Hence, autonomous decentralized units are provided with planned resources, territorial equity, as well as with financial assets to meet the objectives of the plan. The state gets deconcentrated with the challenge being to ensure efficient institutional set-up in the territories which will contribute to successful inter-institutional mechanisms between the central government and its deconcentrated local representations.<sup>15</sup>

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<sup>15</sup>Delgado Rafael Correa, The Republic of Ecuador. National Development Plan National Plan for Good Living 2009-2013: Building a Plurinational and Intercultural State, Secretaría Nacional de Planificación y Desarrollo – SENPLADES, 2010, pp. 17-102.

Thus, the post sovereign order has presupposed a complex structure in which there is no single principle of authority. It is not an anarchic governance system but a system of common understandings. It does not mean the end of sovereignty but rather the end of the monopoly of the state. It has become to include shared and divided authorities, multiple sources of transnational structures i.e. functional and institutional. In Western plurinational societies the solution has been in federal models, such as in Canada, Belgium and to a lesser extent Spain. Surely enough the new order is still in the process of formation and development. However, it is getting more and more speculated in Europe with the EU having indeed grown into a pluralistic political entity which is more than a free trade area but still less than a state.

### **European Union and the governance model it suggests**

Talking about the decline of sovereignty as well as the priority given to integration, convergences and cooperations, the European Union is to be observed.<sup>16</sup> It presupposes an innovative model within which it acts through the competencies that its MS delegated to it and is based on international agreements. **The sovereignty it presents is of sui generis** and the answer to the question whether there exists an EU level sovereignty or not, is definitely positive, due to its legal capacity and the fact that its legislation has superiority over the domestic laws of the member states. Once the MSs delegate certain liabilities to the Union, they cease to possess supremacy over them.

Both the Union and its members are internationally recognized. The Union's territory is not distinct from those of its members and they, in turn, are not juridically independent. Furthermore, the Union is a member of various international agreements and conventions to which its MS are also signatories. Also, similar to its members, the Union has diplomatic representation in multiple countries. And whereas the MS can have discrepancies and even dislike each other, they interact and cooperate with each other as well as conclude agreements on various areas in an open and transparent environment. Today it enables the EU to deploy joint influence, involve smaller MS into determining international debates, encourage sharing resources and burden, and promote democracy and cooperation as well as inclusive consensus within and beyond its borders.<sup>17</sup>

The EU has indeed challenged and changed the Westphalian model of sovereignty within Europe<sup>18</sup>. And while the Union does not meet the standards of a nation-state in many ways, it also differs from an international organization since it possesses a defined territory, monetary unit, provides a free border area between the MS, grants EU citizenship as well as holds the European

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<sup>16</sup>Badakhshani Ofran, "Globalization: The end of state Sovereignty?", Free University of Amsterdam, pp. 4-6, <http://www.khorasanzameen.net/rws/gb01e.pdf>.

<sup>17</sup>Cooper Robert, The post-modern state and the world order, Demos, pp. 26-30, <http://www.demos.co.uk/files/postmodernstate.pdf>.

<sup>18</sup>Krasner Stephen D., "Abiding Sovereignty", International Political Science Review, Vol. 22, No. 3, July 2001, pp. 244-246, <http://maihold.org/mediapool/113/1132142/data/Krasner.pdf>.

Parliament direct elections. All these phenomena bring forward a new, post-sovereign model of governance.<sup>19</sup> It is *a model of transnational governance, with its integration process having already resulted in a quasi-state and partly genuine supranational competences at EU*. In the future it can grow into a federal or confederal state (not the case today since the EU still is not legally or political independent from its MS<sup>20</sup>) or may remain its sui generis characteristics, comprising both supranational and extra-national authorities. But so far it has already managed to displace the conventional sovereignty model in Europe.

Thus, the EU is not a state, a federal or of another system, but rather a complex system of interconnected rules and orders and the pluralism it suggests does not rest on one source of power – be it constitution, a parliament or a unitary nation, or a range of independent; ratified laws. **It suggests a post-sovereign plurinational platform where national identities are shared and intersect in various terms while cultures do not get assimilated to one unitary norm or exist in isolation.** As such there exists no single model or governance strategy for the stateless nations in the EU but rather there are multiple options and policies. As a matter of fact, stateless nations can cooperate with their states, with the Europe of the Regions and/or can even lobby on their own. Furthermore, they can launch common initiatives with small states within the Europe of the Cultures concept, can insist on special recognition within their own state or join with other regions to ensure joint representation in the Council<sup>21</sup>.

European integration challenges state authority and its exclusive sovereignty in such fields as single market, legislation, external security, encouraging a legal and constitutional pluralism in which various normative structures coexist and there is a shared sovereignty. Moreover, the European integration has gone beyond the understanding that democracy can work only in a homogenous society with a unitary identity. Hence, **if the EU is to cope with multiple nations then its constituent plurinational MS must also follow the model.** Also, the European Convention for the Protection of Human Rights, makes a distinction between human rights and nationality and citizenship, declining a state authority as the only conveyors of universal rights. Furthermore, **the European transnational structures have created new frameworks beyond state for nationality movements, such as cooperation with regions.**

To the point, while nationality claims still include territorial autonomy aspects, the understanding of territory in many ways is changing due to the functional transformations in a state and transnational orders which has promoted **regionalism within the EU.** It presupposes a territory for self-government yet without empowering with exclusive authority over the territory. Rather **it**

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<sup>19</sup>Kelleh Fassue, *The Changing Paradigm of State Sovereignty in the International System*, Kansas City: University of Missouri, 2012, p. 18,

<https://mospace.umsystem.edu/xmlui/bitstream/handle/10355/14672/KellehChaParSta.pdf?sequence=1>.

<sup>20</sup>MacCormick Neil, “Sovereignty: Myth and Reality”, *Scottish Affairs*, no.11, Spring, 1995, p. 10,

[http://www.scottishaffairs.org/backiss/pdfs/sa11/SA11\\_MacCormick.pdf](http://www.scottishaffairs.org/backiss/pdfs/sa11/SA11_MacCormick.pdf).

<sup>21</sup>Keating Michael, *Beyond sovereignty. Accommodating nations in the European commonwealth*, Treatises and Documents, Ljubljana, No. 52, 2007.

**assumes functional changes, institution building and new approach towards territorial politics, the key aspects being local and regional levels for economic development and growth within European and international markets. One more issue to note is the social construction of the region and the role of norms, collective identities and shared memories in enabling cooperation and change.** The key triggers are not the ones typical to a classic state such as tariff policy or macroeconomic assumptions but rather aspects which stem from supply encouraging entrepreneurship and adaptation. Many of such fields, such as education, training, infrastructure and planning, are exercised by sub-state governments.

Moreover, there also takes place reterritorialization, embracing language and cultures since education and other public services critical to maintaining a cultural community are mostly territorial. Territorialization of nationality and cultural claims are also seen in Flanders where a linguistic group has become territorialized integrating previously rather distinct provinces and areas. The autonomous community of the Basque Country has also grown into a significant unit while being based on three disparate territories. Wales, which was previously also divided between the north and south has become a new unity as a European region.

Furthermore, the process has also lead to institution building in state and civil society. States have becoming increasingly decentralized both to adjust to the autonomist claims and ensure functional efficacy. In their turn interest groups and other constituents of civil society have sought to consolidate the territory as a social, economic, and political system. Regions are growingly competing with one another for investment, technology, and markets within European and global platform. In line with this, unsurprisingly enough stateless nations have favored region building to ensure their autonomy<sup>22</sup>. The approach thus entitles stateless nations to get a significant level of functional autonomy within the regional political economy. As such **territorial decentralization within the state and the increase of the role for regions can serve as a model for accommodating nationalities.**

The attempts to promote regional participation in the EU have started since the 1980s with the aim of establishing a “Europe of Regions” in which local governments would replace states as key players. **Many regions formed information offices in Brussels** to have their say in the European decision-makings. In line with this the **EU adopted the “subsidiarity” phenomenon, established the Committee of the Regions**, enabling regional ministers to be included in the MS delegations in the European Council. Moreover, the Lisbon Treaty of 2009 calls the Commission, Council, and Parliament to consult the institution regarding the issues that concern local or regional government and it enables the CoR to challenge those EU laws that it considers breaches the subsidiarity principle.

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<sup>22</sup>Keating Michael, European Integration and the Nationalities Question, Collection of International Studies, Ceinik, 2007.

**Except for the Committee of the Regions, the characteristics and the scope of formal regional participation in EU policy-makings rests on the hands of the MS.** In this vein, with its high level of autonomy, **Belgium often delegates Flemish and Walloon representatives to the EU Council**, although they are supposed to present Belgian positions rather than regional ones. By contrast, **Spain and the UK have been more indisposed to have formal delegates from their stateless nations in the EU.**

However, while the formal wires to the EU are limited for the regions, **regions have informal networks to push their interest.** For instance, the Flemish, Scottish, and Catalan nationalist members of the European Parliament have come together with representatives of other stateless nations to establish the **European Free Alliance**, which consists of 40 regionalist parties throughout the European Union and seeks to promote self-determination of peoples. Moreover, Flanders, Scotland, and Catalonia take part in the **Conference of European Regions with Legislative Power (REGLEG)**, which is an informal network which focuses on the role of legislative regions in EU affairs and policy formations.

Furthermore, regions also make use of their status, e.g. **they receive EU structural funds** through their states. Additionally, cultural and linguistic rights of the minorities within a region are protected by the EU law and they enjoy formal recognition of their cultures at the supranational level.

More notably, **the EU enables the stateless nations to exercise “paradiplomacy.”** To the point, Catalonia in particular has intensively presented Catalan interests beyond the borders of the Spain, by integrating itself into the European economy, promoting Catalan culture, and developing inter-regional relations such as the “Four Motors of Europe,” a cooperation among Catalonia and the correspondingly wealthy regions of Baden-Württemberg (Germany), Rhône-Alpes (France), and Lombardy (Italy) aimed to advance regional economic development. As a matter of fact, Catalonia has managed to participate in European affairs while remaining within Spain. The efficient and successful paradiplomacy can be the reason why Catalan nationalists mostly demand for increased autonomy rather than outright independence. Flanders’ paradiplomacy also goes beyond the borders of Belgium, often focusing on the promotion of the Flemish culture and international investment. However, in contrast to Catalonia or Scotland, they are entitled to conclude international agreements in those fields over which it has authority on the domestic level.<sup>23</sup>

### **The case of Belgium**

*Sub-state diplomatic actions of regions is especially advanced in two Belgian Regions and Communities – Flanders and Wallonia. Since the state reform of 1993, the country is a federal state by which the state are*

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<sup>23</sup>Connolly Christopher K., Independence in Europe: Secession, Sovereignty and the European Union, Duke Journal of Comparative & International Law, 2013.

*constitutionally entitled and obliged to exercise their external relations. Two principles set the governance system of the federal government and the regions: “in foro interno, in foro externo and the absence of a hierarchic system between the federal and regional level.*

*The first principle implies that the Belgian regions are to perform their authorities both on domestic and foreign affairs. If a Belgian region is entitled to manage a certain aspect on the domestic level then it also expands to the foreign policy level, too. This means that Belgian regions are entitled to send their own delegate and make international agreements with third parties.*

*The second principle of the Belgian approach is that there exist a fundamental equality among all the governments in Belgium. On the domestic level, this means that a legislation adopted by a federated level has a power equal to that of a federal level and on the foreign policy arena this means that all regions are responsible for designating the country’s foreign policy framework. Thus, the central government is only one of the players and has turned into a coordinating entity which supervises all external agreement under the auspices of federal structure.*

*Moreover, within the Belgian federation, international treaties have become growingly diverse and there has been formed an informal division of tasks with regard to external relations among different government within the state. However, it is still to be acknowledged that all the six governments (three language communities and three regions) with the Belgium federation work on quite complementary terms both in geopolitical and functional issues. And the Belgian regions and communities are increasingly getting more authorized. Notable is the experience of the Flemish government which continuously adapts and develops its own foreign policy trends, making use of the opportunities for networking and new cooperation. Another Belgian region, Wallonia, has also widely practiced its treaty-concluding competence, also using Francophonie as a key network to increase its role on the international level<sup>24</sup>.*

The EU provides opportunities for nationalist objectives beyond state borders, creates certain platforms to facilitate stateless nations’ autonomy, without embracing secession. European integration, hence, has indeed contributed to the state transformation in Europe and building a unique polity which undermines the traditional understanding of sovereignty, territory, nationality and state governance system, opening up new approaches of political power and public action based on shared sovereignty and authority.

Moreover, being a unique example of soft power in the world, one that highlights the efficacy of free trade and of reducing barriers to the free movement of people, money, capital and services inducing compromise, higher living standards and increased protection, respect for rule of law and democracy, the EU seeks to promote its principles and values in a peaceful, civilian and diplomatic manner not only within its borders but also beyond them.

Among others, the EU’s support in third countries has resulted in legislative changes (e.g. election laws in Moldova), the strengthening of parliaments (e.g. in Yemen), reinforced political parties (e.g. in Tajikistan), increased participation of under-represented groups in political life (e.g.

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<sup>24</sup>Criekmans David, Foreign Policy and Diplomacy of the Belgian Regions: Flanders and Wallonia, Netherlands Institute of International Relations “Clingendael”, March 2010.

women in Azerbaijan and Ghana, youth in Kyrgyzstan and indigenous communities in Bolivia), safeguarding freedom of expression and a free press (e.g. in Ivory Coast), enhancing the trust of citizens in electoral processes (e.g. in Bangladesh) and in better information, monitoring, and transparency of political activity (e.g. in the Philippines).

To promote plurinational democracy the EU has also been involved in third countries, For example, in Bolivia, the EU is supporting the school of indigenous communities' governments to develop and strengthen an efficient framework for ensuring political right of the indigenous people. The EU contributes to capacity building of indigenous authorities and developing models of community and territorial governments, as a ground for the formation of autonomies of stateless nations in the plurinational state of Bolivia<sup>25</sup>.

### **Plurinationalism and democracy issues in Latin America: the case of Bolivia**

Until the 1980s and 1990s, in Latin America indigenous movements in the politics were discouraged. The policies towards the nations were led towards assimilation rather than empowerment. The strategy was to restrict their political participation. However, the democratization wave of the 1970s also touched the Latin American countries giving way to the formation of indigenous social movements and organizations which mostly stemmed from local movements. As such, in the 1980s the most active regional and national indigenous organizations achieved a greater access to bilingual education and collective land government. Furthermore, along the democratization process as the elite politicians were calling for democratic reforms through constitution and other political and administrative changes, indigenous organizations increased their claims for more rights. As such, many Latin American countries constitutionally recognized themselves as plurinational - Guatemala, Nicaragua, Brazil, Colombia, Mexico, Paraguay, Ecuador, Argentina, Peru, Venezuela, Bolivia. This has in its turn encouraged the formation and development of indigenous parties and organizations. Moreover, indigenous political parties have also registered remarkable successes in elections. As such, in 1991, in Columbia more than 30 indigenous municipal councilors and four representatives were elected to the Congress were elected in Colombia. In Ecuador, the Pachakutik Movement of Plurinational Unity has been active in politics since its establishment in 1995 and in 1998 had eight members elected in the Parliament. In Bolivia the Movement to Socialism (MAS), won the presidency in 2005<sup>26</sup>.

But even with these constitutional and political changes and reforms at stake whether the countries have managed to become consolidated plurinational democracies is under a big question mark.

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<sup>25</sup>Piebalgs Andris, Delivering on Democracy, Highlight of the Semester, EIDHR - European Instrument for Democracy and Human Rights, 2011.

<sup>26</sup>De Dosch Ana Lucía, Salinas Understanding Latin America indigenous movements: From marginalisation to self-determination and autonomy?, 3rd International Seminar & Workshop on Latin American and Asian Studies (LASA III), Institute of Occidental Studies, Universiti Kebangsaan Malaysia, October 2012.

## The Case of Plurinational State of Bolivia

Democratization did not bypass Bolivia in the 1980s, either. The process was not easy with the Bolivian history having experienced instability and military and authoritarian regimes which desecrated civil and political rights of the citizens. Democratic electoral process in the country was launched in 1982 with Bolivia experiencing seven different governments by 2009.

**The Bolivian society has historically been divided between the criollo elite and the indigenous minority which comprise about 50 to 70% of the total population.** These segments have framed the political change in the country. In the 1950s the Revolutionary Nationalist Movement (MNR) unleashed the Bolivian National Revolution to address these inequalities, the most significant result being the introduction of the universal suffrage in 1956. However the 12-year-long reform left the country divided with Bolivia entering a 20-year period of military regimen. Only in 1982 a non-violent social movement led by workers, union members, students and private businesses managed to put end to the military. The Bolivian military accepted the previously elected president and the 1980 Congress and the country stepped into a democratization process with multi-party elections. However, by the early 2000s, new social and political crises were undeniable in the country, resulting in the resignation of the elected president Gonzalo Sanchez de Lozada, and his appointed successor, Carlos Mesa, in 2005<sup>27</sup>.

The next president who came to the office was Evo Morales from the ethnic party Movement to Socialism (MAS) which has strong ties to indigenous and campesion (peasant) organizations. This seemed to herald a launch of political inclusion of indigenous people and plurinational democratization process. Yet, the party has also taken up authoritarian centralized form of rule, with the government prosecution of the opposition and Morales himself referring to the media as “enemy number one”. During the presidency of Morales, **Bolivia ratified a new constitution which went into use in February 2009**<sup>28</sup>.

It can be described as a “transformative constitution” since it seeks to change the existing political, economic, social, symbolic, and legal system of the country. **It recognizes the country as a state with political pluralism, acknowledges that its sovereignty is based on the Bolivian population and must be ruled via both direct and representative ways.** The constitution also establishes new instruments and institutions for participatory democracy, ensures enhanced human rights and respect for rule of law. However, while constitutions are powerful mechanisms shaping political and social systems of the country, the provisions and laws encoded in them are still to become a legal reality. And here is the trap.

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<sup>27</sup>United Nations Development Programme Promoting Gender Equality in Electoral Assistance: Lessons Learned in Comparative Perspective Country Report for Bolivia, 2014.

<sup>28</sup>Ellerbeck Alexandra, Bolivia under the MAS: A Case Study for Assessing Proto-Democratic Characteristics in Hybrid Regimes, Wesleyan University, 2013.

As seen, the new Bolivian constitution strengthens the instruments and institutions of participatory democracy, acknowledges social, political rights, and aims to form a plurinational and intercultural democratic state. It seeks to reform relations between the state and pluralist civil society, empowering the civil society with more competencies in the state policy makings. **Yet, the real socio-political setting of the country conflicts with the approach.** The MAS party instrumentalized the constitution to consolidate its power. The role of the political parties is notable in the Assembly and the majority of the Assembly deputies belong to the MAS party. Hence, while on the one hand the constitution highlighted the importance of participatory democracy, on the other hand it strengthened the executive branch. Moreover, the MAS and its affiliates at the national and regional levels have been excluding opposing approaches. The role of civil society and different public involvements in decision makings have been restricted by the government but also by the conservative opposition, which has been focused on perusing its own privileges. The MAS party has strong ties with civil society organizations and it also makes use of them to adopt political-juridical changes. The party presents itself as the government of the social movement and of the indigenous peoples, as if these are a homogenous layer, and undermines the fact that the party has much stronger links to some organizations and groups than to the others. Consequently, due to the underrepresented segment of the society, new exclusions emerge. The tendency has been to concentrate the power, in contrast of building a new pluralist and participatory model of democracy. Moreover, while the constitution recognition of indigenous-campesino self-governing entities and their participation in state politics could promote pluralist democratization of the country, many indigenous-campesino communities have authoritarian and sexist nature themselves. Hence, the formation of intercultural institutions is another challenge to achieve.<sup>29</sup>

**Thus, despite the ratification of a new constitution, its impact is still marginal in the country's social and political life. The country does not meet the threshold for democracy.**

### **Implications for Bolivia**

The Bolivian plurinational constitutional context denotes reconfiguration of the political map based on indigenous participation, juridical pluralism and the recognition of indigenous autonomies alongside departmental, regional and municipal ones. Yet, in reality the picture differs.

There are certain changes and paths the country is to proceed. It is to ratify a comprehensive and inclusive understanding of culture. **The state should take into account the country's diverse historic background, accept livelihoods of divergent peoples and nationalities as well as include and increase their role in policy makings.**

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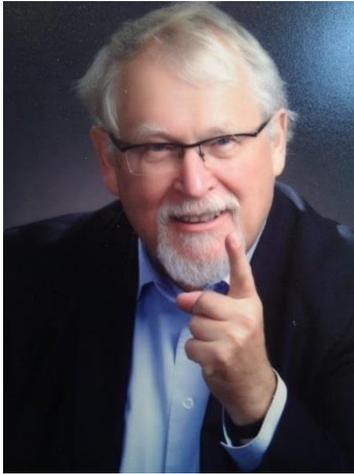
<sup>29</sup>Almut Schilling-Vacaflor, Bolivia's New Constitution: Towards Participatory Democracy and Political Pluralism? European Review of Latin American and Caribbean Studies 90, April 2011.

On the way to building a pluralistic state, **Bolivia could make a wide use of the European plurinational states described above as well as from the EU per se.** On the way towards an inclusive plurinational democratic state, **the first step for Bolivia could be recovering and strengthening its planning, regulating, control and redistributing capacities, deprivatizing it and encouraging public interest. The state is to build and consolidate efficient, and result-oriented democratic institutions.** Only after these, the state can go towards plurinational democratic path which implies high degree of intercultural policies, recognition of the rights of indigenous peoples and their inclusion in the policy makings. Afterwards, **the state is to seek to form a polycentric, deconcentrated and decentralized polity which is diverse both in territorial and cultural terms.** Hence, decentralization and de-concentration of the state power in favor of autonomous decentralized government should be the target. Formation of regions with sound public administration and efficient public policies should be promoted.

# *Non-EU Migrants Play Role for Development of the EU*

## *An Interview with the President of 80 Million Europeans*

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*The Ministry of Foreign Affairs of Latvia, in cooperation with the non-governmental organization “Europeans Throughout the World”, the Latvian Institute of International Affairs and non-governmental organization the “European Latvian Association” and supported by the European Commission, Friedrich-Ebert-Stiftung and the Nordic Council of Ministers’ Office organized the conference “How to improve intra-European mobility and circular migration? Fostering diaspora engagement?” in Riga, Latvia, on May 11-12, 2015. The conference aimed at identifying the micro-economic and fiscal impacts of intra-EU labor migration after 2014 as well as determining the legal, social and cognitive barriers to greater human mobility. Additionally, the conference sought to come up with policy recommendations for a more integrated and better functioning internal market for labor.*

*In line with this EUFAJ had an interview with the President of the NGO “Europeans Throughout the World”, Niels Jørgen Thøgersen ([www.euromonde.eu](http://www.euromonde.eu)), e-mail: [niels@euromonde.eu](mailto:niels@euromonde.eu)). The Danish was also Director in the DG Communication in the European Commission where he served for 32 years.*

*The interview was made by EUFAJ’s Ofelya Sargsyan*

**EUFAJ:** *Does the “Europeans Throughout the World” really have 80 million members? And is the organization also active beyond the EU? Which countries are most and least presented?*

**Thøgersen:** Europeans Throughout the World / Europäer weltweit ([www.euromonde.eu](http://www.euromonde.eu)) is the spokesman for more than 80 million European expatriates around the world, incl. 14 million inside the EU. We are a pan-European umbrella organisation with national, regional and other organisations as members, all of them working fully or partly for expats. The huge majority of European expats are not members of any of these organisations. But we aim at reaching them via internet and social media.

We have member organisations in 22 European countries. Unfortunately, not yet in Germany, as it seems to be very difficult to find any organisations representing the millions of German citizens living abroad.

**EUF AJ:** *And now regarding the mobility in the EU: To what extent has the intra-EU mobility changed after the enlargement?*

**Thøgersen:** It has changed dramatically in the sense, that many citizens from the new EU member states in Central- and Eastern Europe used the new opportunities to have the right to work in other EU member states. Some EU member states such as the United Kingdom opened the door for citizens from the new member states from 2004.



*Ofelya Sargsyan and Niels Thøgersen*

**EUF AJ:** *How has the economic crisis impacted on the intra-EU mobility?*

**Thøgersen:** The answer is yes to that question too. In the beginning it encouraged more people to move to other EU member states to seek employment etc. But later in the crisis many citizens from the new member states returned back home - partly because many of them lost their jobs, and partly because some of the new member states were lacking people for vacant posts. This was in particular the case in Poland, which was less hit by the crisis than other countries.

**EUF AJ:** *Which are the basic reasons for the intra-EU migration for the EU citizens?*

**Thøgersen:** For many it is to get jobs. For others it is to study in other countries - either the full study or to continue their studies they have done in their country of birth. And finally there are also many citizens using the free movement to retire in another country than their own. This is mostly the case for citizens of northern countries going to the warmer southern countries. And very often to the great benefit also for their new countries of residence.

**EUF AJ:** Which are the main impediments that the EU citizens face when moving to another EU MS?

**Thøgersen:** As any EU citizen has the right to take work, study, etc. in another EU country (this is a fundamental right in the EU treaties) the law is in place. But still there are many practical problems. Some are related to school problems for families with kids. It is often not easy to change from one school system to another. Other problems can be due to language. If you do not speak the language of your new country of residence, you might have problems. And when democratic rights are concerned you in some countries (like Denmark and others) lose your right to vote in elections in your country of birth and also in your new country. This is really a problem for many people. In the majority of EU countries where you are still allowed to vote in elections in your country of birth it is often so complicated that most people do not vote. This could and should be changed by simplifying the procedures, and also by introducing electronic voting as some countries already did with success, not least Estonia.



*During the conference in Riga in May, 2015*

**EUF AJ:** Which are the costs and/or benefits of the mobility/migration for the recipient EU Member States?

**Thøgersen:** Lots of independent research has in many countries proved that the benefits for the country of residence are much higher than the costs. The mobile citizens contribute net to society via their work, their payment of taxes, etc. A recent such research report came from the UK

government's own research. These research findings have to be used much more pro-actively to fight the wide-spread scaremongering all over Europe.

***EUF AJ:** What is the influence of mobility on the socio-cultural life of the mobile EU citizen and his/her family?*

**Thøgersen:** An obvious result is that the socio-cultural life becomes much more diverse and rich. Take Luxembourg: More than 45 % of the residents in the country come from other countries. There are more than 100 nationalities in the country. And they are very active in presenting their different cultures. The same can be said in many other countries. We also see cases where people who are scared of foreigners often live in parts of their country where there are very few citizens from other countries. Part of Switzerland is a very good example.

***EUF AJ:** And, finally, what is the impact of the non-EU labor migrants on the EU economy?*

**Thøgersen:** As EU in general can foresee to get a huge lack of workforce also the non-EU migrants contribute and will in the future contribute to the development of our countries. It is evident that the huge inflow of refugees to Europe for the moment (not least because of the war in Syria and in many places of Africa) put a pressure on Europe. That is why the EU Commission has suggested to make a fair distribution inside the EU of these refugees and not let the arrival countries in the south carry all the burdens.

But the non-EU immigrants to Europe is a very different issue than the 80 European expatriates around the world. And therefore not an issue we are dealing within “Europeans Throughout the World”. Still, they should, of course, be treated properly according to European values and international conventions.

***EUF AJ:** Thank you, Mr. Thøgersen, for your replies.*

# *Turkey's Democracy Deficit and the Stalled EU Process*

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## **Isa Afacan**



*Dr. Afacan is an assistant professor of International Relations at Turgut Ozal University in Ankara, Turkey. Prior to that Dr. Afacan taught at Zirve University in the city of Gaziantep, Turkey. He earned his PhD from Florida International University in Miami, FL. The areas of his interests include foreign policy analysis, American foreign policy, Turkish foreign policy, Islam in international relations and international relations theory.*

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## **Abstract**

**Turkey’s democratic history has always been a tumultuous one. Occasional reforms were often interrupted by military interventions, deep partisan wrangling, or economic and political instability. There has been no extended period in Turkey’s history that can be truly called democratic. For decades, it has been more apt to call democracy in Turkey a ‘work in progress.’ A democracy deficit has become a common refrain in Turkey’s republican history.**

The year 2014 will probably be remembered as one of the most troubled of the era, as main pillars of democracy like rule of law, separation of powers, accountability and freedom of expression were seriously undermined. For this issue, we will review the reports on the connection between stalled EU process and Turkish government’s backtracking on the democracy agenda.

First is the official report of the European Commission’s 2014 Turkey Progress Report<sup>30</sup>. It scrutinizes the government’s response to serious allegations of corruption among cabinet members, and argues that it has “serious concerns regarding the independence of the judiciary and separation of powers.”<sup>31</sup> The extensive reshuffling or dismissal of prosecutors, judges and police

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<sup>30</sup> Turkey 2014 Progress Report; Brussels: European Commission, 2014.

<sup>31</sup> Ibid, 2.

officers hampered the effective and independent functioning of the justice system. Changes to the Law on the High Council of Judges and Prosecutors and the resultant reassignment of judges and prosecutors hindered the prospect of prosecuting anyone in connection with the corruption scandal. In several instances, the commission report highlights the executive branch's interference with the Judiciary, and contends that the government's action should cast doubt on the integrity and independence of the judiciary. In addition, a large-scale reassignment and dismissal of police officers raises significant concerns over the operational capabilities of the police to tackle organized crime, terrorism and other vital threats.

In the context of silencing media and the opposition, the ban on platforms like Twitter and YouTube -- though later overturned by the Constitutional Court -- was seen by the commission as a major impediment to freedom of expression. The commission contends that "state officials continued making statements having an intimidating effect on the media. This, together with the ownership structure of the Turkish media sector, led to widespread self-censorship in the press, as well as resignations and dismissals of journalists."<sup>32</sup> Additionally, the report maintains that parliament does not fully perform its main responsibilities like law making and the oversight of the executive branch. The parliament passed many important bills as quickly as possible, without adequate consultation and deliberation. The report adds that "an inclusive and consultative approach to law-making remains the exception rather than the rule."<sup>33</sup> After discussing the ongoing political and economic context, the commission report further elaborates on Turkey's ability to take on the obligations of EU membership in 33 chapters. It concludes that Turkey needs to do more to fulfill the criteria.

The second report comes from Carnegie Europe, a division of the Carnegie Endowment for International Peace.<sup>34</sup> It argues that accession talks have stalled due in large part to rising authoritarianism in Turkey, and Europe's diminishing appetite for enlargement. "Economic integration can yet again become the lynchpin revitalize the EU-Turkey relationship,"<sup>35</sup> as it did in the 1990s, the report says. For this, authors Marc Pierini and Sinan Ülgen propose reviving the idea of a more expansive customs union, which provided economic benefits to both sides of a strategy revitalize the EU-Turkey relationship,"<sup>36</sup> as it did in the 1990s, the report says. For this, authors Marc Pierini and Sinan Ülgen propose reviving the idea of a more expansive customs union, which provided economic benefits to both sides in the 1990s, while adding new sectors like services and agriculture. An initial customs union agreement only covered the manufacturing industry, even though services now comprise a much bigger part of both the EU and Turkish economies. According to the report, a reinvigoration of the customs union could benefit Turkey as its growing economy is now showing signs of exhaustion. However, they contend that Turkey

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<sup>32</sup>Ibid, 4.

<sup>33</sup>Ibid, 9.

<sup>34</sup>Marc Pierini and Sinan Ülgen, *A Moment of Opportunity in the EU-Turkey Relationship* (Brussels: Carnegie Europe, 2014).

<sup>35</sup>Ibid, 5.

seems unwilling to start talks on the subject because such arrangements were seen as “a threat to the prevailing system of rent distribution and political funding through the public procurement regime. They prefer more discretionary as opposed to rule-based decision-making.”<sup>36</sup> The authors also discuss the possible exclusion of Turkey from the Transatlantic Trade and Investment Partnership (TTIP). As discussed in detail in the previous of this magazine, possible non-inclusion of Turkey poses serious economic, political and strategic risks to all parties involved. Pierini and Ülgen suggest that the EU should have an option of eventual multi-lateralization of the TTIP, so that like-minded countries can be joined after the treaty is finalized. This is a tall order. Any latecomer will be forced to accept the terms of the treaty as is, and will have no hope of shaping the actual negotiations when it is being formed.

The Carnegie report also focuses on the “massive roll- back of Turkey’s rule-of-law architecture” since the corruption scandal came to the fore. For Pierini and Ülgen, “Turkey’s EU accession is more problematic today than at any point since negotiations started in October 2005.”<sup>37</sup> More important, the Turkish government has lost its appetite for reform, even while rhetorically making it look as if it favors reform. “Turkey now meets fewer of the most important standards for a candidate country than in the past,” the report states. “These standards concern fundamental freedoms, the independence of the judiciary, the rule of law, and the reinforcement of democratic institutions and processes.”<sup>38</sup> In addition, while acknowledging the new rhetoric of engagement under Prime Minister Ahmet Davuto#lu, Pierini and Ülgen are skeptical whether the Davuto#lu government will have the “political space” to elevate the EU agenda, given the fact that President Recep Tayyip Erdogan now acts as a de facto executive president. In short, EU expects that Ankara will not only talk the talk but also walk the walk.

Considering the dramatic challenges that Europe went through in the last few years, from the Eurozone crisis to the resultant rise of Eurosceptic and anti- enlargement parties, Turkey’s accession prospects look very dim. The formal diplomatic relations between EU and Ankara, the Carnegie authors argue, are impeded by formalism, meaning that it only serves as a routine exercise, without producing any significant “joint understanding or joint action.” Moreover, Turkey’s rate of adherence to EU statements, what is called a “convergence yardstick,” tellingly dropped from 46 percent in 2013 to 29 percent in 2014.<sup>39</sup> This indicates a larger problem; that Turkey is drifting apart from European foreign policy orientations. Ankara’s increasingly ambitious policies in the Middle East and its immediate neighborhood bore some dramatic results that are at odds with EU policies. The Carnegie report asserts that “on Syria, Iraq, the Islamic State, Israel, Palestine, and Egypt, Turkey implemented policies that led to substantial divergences with the EU.”<sup>40</sup> Essentially, the EU sees a growing gap between Ankara and Brussels on key foreign

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<sup>36</sup>Ibid. 7.

<sup>37</sup>Ibid, 9.

<sup>38</sup>Ibid.

<sup>39</sup>Ibid., 16

<sup>40</sup>Ibid. 17.

policy areas that may have the potential of harming Turkey's accession prospect. Adding insult to injury, the flow of EU citizens to Syria and Iraq via Turkey to participate in terrorist activities has become a hot potato for both sides, resulting in a trust deficit in the counterterrorism cooperation. While the EU alleges that Turkey is not taking enough measures to stop border crossings, Turkey accuses EU countries of not sharing enough intelligence on their citizens traveling to the region via Turkey. Overall, despite the grim nature of the relationship, Pierini and Ülgen are still hopeful that expanding the scope of the customs union might generate much needed impetus for Turkey's EU accession process.

The third report is an article within a fairly large edited volume by Istituto Affari Internazionali (IAI)<sup>41</sup>. We will focus on one piece that is relevant to the larger theme. Authors Senem Aydın-Düzgit and E. Fuat Keyman meticulously chronicle the stagnation of democratic reforms in the post-2005 period. They emphasize EU conditionality -- that is, the EU's insistence that Turkey meet certain conditions before joining the EU in furthering democratic reform in spite of domestic political hindrances. They primarily argue that EU is still a fundamental anchor for the consolidation of Turkey's democracy despite the fact that the last few years indicate otherwise. While Turkey inches toward solving its Kurdish question, the authors make clear that Turkish democracy will not be consolidated without solving this issue: "It is not possible to make Turkish modernity more multicultural, Turkish democracy more consolidated, Turkish economy more sustainable, Turkish society more tolerant and peaceful, and Turkish foreign policy more proactive, multidimensional, and effective, without resolving the Kurdish question."<sup>42</sup> The authors maintain that the government needs to convince the Turkish majority on the necessity and viability of a political solution. On the other hand it should also deliver serious reforms to the Kurdish constituency in a timely manner, which is a delicate balancing act in synchronizing expectations and demands from both sides. Overall, the authors stress the diminishing credibility of EU conditionality, along with domestic factors, as the reasons behind Turkey's stalled EU accession process. Even worse is the fact that a "lack of vision, trust and commitment on both sides [Turkey and EU] seems to have brought relations to a standstill."

However, it is important to note that the outcome of this impasse is much more harmful to Turkey than to the EU, as Turkey risks losing a fundamental anchor and may end up sailing to some dangerous uncharted territories. The obvious question for Turkish policy makers becomes: What is the "new" Turkey's direction and orientation after drifting away from democratic principles and the Western political and economic system?

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<sup>41</sup>Senem Aydın-Düzgit and E. Fuat Keyman, "EU-Turkey Relations and the Stagnation of Turkish Democracy," in Senem Aydın-Düzgit, Anne Duncker, Daniela Huber E Fuat, Keyman and Nathalie Tocci, eds. *Global Turkey in Europe: Political, Economic, and Foreign Policy Dimensions of Turkey's Evolving Relationship with the EU*, Rome: Edizioni Nuova Cultura, 2013, pp. 103-164.

<sup>42</sup>Ibid. 144.



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# *Turkey-Armenia Relations (Russia a Player): Turkey a Threat to Armenia's National Security*

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## **Grisha Aghajanyan**

*Grisha studied at Yerevan State University, Faculty of International Relations Department of Political Science from 2008-2012. Afterwards he continued his studies at University College of London, doing an MSc in Security Studies.*

*His article “Turkey-Armenia Relations: (Russia a Player): Turkey a threat to Armenia’s National Security” was originally published in “The Armenian Post” in February, 2015. See under:*

*<http://thearmenianpost.com/turkey-armenia-relations-russia-a-player-turkey-a-threat-to-armenias-national-security/>*

*Republic of Armenia National Security Strategy (approved at the session of National Security Council at the RA President office on January 26, 2007) “There are no diplomatic relations between Armenia and Turkey. The establishment of normal diplomatic relations between Armenia and Turkey is hampered by preconditions set forth by the Turkish side.*

*Armenia has long advocated the establishment of diplomatic relations without any precondition and will continue its efforts to surmount the obstacles and improve the bilateral relations between Armenia and Turkey. Armenia aspires for the universal recognition and condemnation, including by Turkey, of the Armenian Genocide, and sees it both as a restoration of an historical justice and as a way to improve the overall situation in the region, while also preventing similar crimes in the future. The unnatural character of bilateral relations and the closed border by Turkey threaten the Armenian security and hamper its lasting development.*

*The absence of normalized relations adversely affects the stability of the region as a whole and impedes the development of regional cooperation. The normalization of Armenian-Turkish relations would decrease the risk of new dividing lines emerging in the region and would help to create a more conducive environment for the final settlement of the Nagorno-Karabakh conflict. Armenia closely follows Turkey’s accession negotiations with the European Union and hopes that the process will avoid any application of double standards. Armenia stresses, that the lifting of the Turkish blockade of Armenia, which has acquired special importance in view of Armenia’s inclusion in the European Neighbourhood Policy (ENP), will be an important condition in the negotiations between Turkey and the EU”.*

Turkey has been one of the initial states to acknowledge Armenia's independence in 1991, but since then the Turkish- Armenian relations have been noticeable by a period of tightness and struggle. The war between Armenia and Azerbaijan over the Nagorno-Karabakh region provoked Turkey to close borders with Armenia and refuse diplomatic relations. As Giragosian, (2009, p. 2) states "For both Turkey and Armenia, the last decade and half has been a period of stalemate. Turkey's closure of the border failed to coerce Armenia and the lack of diplomatic relations only deprived both sides of options or dialogue.

The deadlock also deepened mutual misunderstandings, largely centered on Armenian Diaspora efforts to pursue international recognition of the events of 1915 as genocide triggered a defensive Turkish reaction that tend to view the same period as anything but genocide."

Bilateral relations were tended to improve in the first years of Armenia's independence, but the Armenian-Azerbaijani war over the disputed Nagorno-Karabakh region turned everything upside-down.

In an interview regarding the Armenian-Turkish relations, that I carried out with former Deputy Foreign Minister Mr. Armen Baibourtian (Baibourtian Interview, 2013) Baibourtian explained "With the establishment of the independent Armenian statehood in 1991, the new leaders of the country embarked on the path of diplomatic engagement with Turkey and building bilateral relationship. First diplomatic contacts upon Yerevan's initiative set conducive environment for subsequent actions. Turkey's step of recognizing independent Armenia was perceived as a launch of positive engagement policy from the side of Ankara. Though Turkey's refusal to establish diplomatic relations with Armenia impeded the entire process.

The in-depth analysis of that period testify that Turkey's refusal for establishing diplomatic relations constituted the single most important negative factor influencing all the consecutive developments. In solidarity with ethnically Turkic Azerbaijan, Turkey closed its land borders with Armenia during the Armenian-Azerbaijani hostilities in relation to Nagorno-Karabakh. This step was perceived in Yerevan as a hostile act and aggravated the entire situation. The seeds of mistrust towards the biased Turkey grew further from Armenia's perspective. The concentration of Turkish troops on Armenia's border was translated as an uncovered intend for attacking the newly independent country. The EU member country Greece even warned the Armenian leadership about imminent Turkish aggression. In these circumstances, the notion of Turkey as a threat to Armenia's national security was shaped. Turkey was listed as number 1 country on Armenia's threat perception list. All further external and internal arrangements to address threats to its security were based on the mentioned factor.

Even the issue of the Armenian Genocide in the Ottoman Empire of the beginning of the twentieth century has a security-related reading in contemporary Armenia. Turkey's refusal to acknowledge relevant historical facts and refusal to recognize the Armenian Genocide came to amplify

Armenia's security concerns vis-a-vis Turkey. The denial of the Genocide is perceived in Armenia as another hostile act and a potential source for aggressive actions from the Turkish side.

The failure in ratification of the Armenian-Turkish Protocols signed in 2009 as an outcome of football diplomacy is yet another example of how a prospect for normalization of bilateral relations was buried due to the Turkish policy. All further developments came to reinforce the Armenian thought on the Turkish threat to its security.”

The recognition of the 1915 events under the Ottoman Empire as Genocide, and the Nagorno-Karabakh conflict between Armenia and Azerbaijan are fundamental issues in the Armenian-Turkish relations. Armenia considers Turkey's non-recognition as threat to its security because it fears that history might repeat, unless it has not been recognized by Turkey and the international community.

The Nagorno-Karabakh conflict is being used by Turkey to pressure Armenia and also keeps it as a tool to enforce its influence in the Southern Caucasus.

I personally see the Genocide issue as a clash of Armenia's national and state interests. National interest of Armenia and the interests of the Armenian diaspora expect the recognition of the Armenian Genocide; this is more the emotional side of the issue. Instead the state interests of Armenia require open borders with all its neighbors, as well as deep diplomatic and economic ties, especially in today's blockade.

Armenia would still be able to support the recognition of the Armenian Genocide, not on state level, but with supporting the Armenian diaspora through various informal means. By this way Armenia could have had normal relations with Turkey and also would have been able to limit Turkey's influence on the Nagorno-Karabakh conflict. As the Genocide issue not being an obstacle between Armenia and Turkey would curtail Turkey's support of Azerbaijan in the conflict. Open borders with Turkey are much more of Armenia's interest than of Turkey's, as Armenia needs Turkey more, compared to the significance of Armenia for Turkey. In an interview meeting which I conducted with Richard Giragosian, (Giragosian Interview, 2013) Giragosian stated “The possible economic benefits for Armenia from an open border with Turkey are meaningful. First,

- Open border with Turkey would provide abrupt relief to the years of remoteness enacted from the virtual blockade and embargo of Armenia resulting from the closure of its borders with both Turkey and Azerbaijan.
- The opening of at least one of the two closed borders would outcome in a substantial substitute to Armenia's reliance on Georgia as its only external passage, thereby dropping excessive transit costs for Armenian importers and exporters.

Second,

- Open border with Turkey would provide greater market access for Armenia, even beyond the Turkish market, with possible market penetration into the European and Middle Eastern markets.

The third economic benefit is,

- The assurance of greater economic competition from an open border, a fundamental development to counter the power of import and export monopolies within Armenia. Specifically, the emergence of several service-based alliances in Armenia, primarily due to the quarantine from closed borders, has only managed to misrepresent economic progress in Armenia. But with the competition, which may occur when borders are open with Turkey, the Armenian economy can pursue a more natural course based on its comparative advantage.

The economic capacity of open borders is also a mutual gain, as the deprived regions on the Turkish side of the border are in anxious need for new economic movement and new trading allies. Correspondingly, Armenia on its turn offers specific profits to the Turkish side as an energy supplier, through the probable export of superfluous electricity to eastern Turkey, and as an agricultural producer.

The lower workforce costs on the Armenian side may tempt Turkish textile producers and minor manufacturing to establish new factories in neighboring Armenia.”

Undoubtedly, the altering relations between Armenia and Turkey can outcome “win-win” situation for both the states. For Armenia, it offers a desired foreign policy achievement as well a new economic opportunity. For the Turkish side, the Georgian war impelled a need for a substantial change in relations with Armenia.

The opening of the closed borders between the two countries is the primary imperative to any longer-term improvement, without which, months of diplomacy and public expectations will have been for nothing.

### **Russia in the framework of Armenian-Turkish relations**

Armenia’s site between, Russia and Turkey, has for long time required it to adjust its policies to favor one or the other. Till the late Soviet period, Armenia has generally preferred its coreligionist neighbor and has-been contingent on the Russian state for its national security. Following official proclamation of independence in 1991, Armenia’s participation in the new CIS turned into a national security issue as it apparently protracted Russian occupation. As Baibourtian, (Baibourtian Interview, 2013) explains “The powerful pro-independence mindset of the Armenian people who spared no efforts in their struggle for independence from the Soviet Empire reached a

point for making vital decisions on safeguarding the national security. From the one side was an absolute eagerness of not becoming over dependent on a single country and on the other side – a pressing need to address the country’s security concerns through external arrangements. Thus a decision was taken to neutralize the Turkish threat through bilateral military-security agreements with Russia. Russian troops were invited by Yerevan to be stationed on the Armenian territory. So the Russian military base in Gyumri (northern Armenia) was established and joint Armenian-Russian border troops were formed for guarding the borders with Turkey and Iran. The threat for the Turkish attack on Armenia during the advancement on the Armenian forces in adjacent to Nagorno-Karabakh territories in 1993 was neutralized again with the Russian interference.

From this viewpoint, Russia’s role in the Armenian-Turkish relations is huge. It is apparent that Moscow’s status of being Armenia’s protector from Turkey provides Russia with mighty levers over Armenia and its policies.”

The predominant understanding in the early 1990s, nevertheless, was that remoteness from trustworthy alliances was the greater threat.

The Protocols signed between Armenia and Turkey gave hope for the regulation of the relations between the two neighbors. Signing of the protocols received support from major world powers. If the backing from the U.S. side was not an astonishment, what was surprising was Russia’s support for the process, though its interests do not coincide with neither Turkey nor the U.S. (the West).

Since the end of Soviet Union, Russia has seen the Caucasus Region as its back yard or as former Prime Minister Prikamov once said “blijnee zarubejje” which means “near abroad.” In this logic, it can’t be argued that Russia would accept the supremacy of a regional (Turkey) or global power (the U.S.) in the Caucasus.

The Ankara-Tbilisi-Baku (West-East) line, created by Demirel (9<sup>th</sup> president of Turkey, Aliyev (President of Azerbaijan) and Shevardnadze (Georgian president) and supported by the West, had significantly narrowed Russia’s authority in the region. Facing its own economic and political problems for a long time, Yeltsin’s Russia was not in a situation to do something about this.

There are two main reasons why Russia backed and favored the Turkish-Armenian reconciliation:

- Improvement of its post-war image and to appear pro-peace country.
- Cause a gap between Azerbaijan and Turkey and thus entirely eradicate Ankara-Tbilisi-Baku line.

Throughout Turkish-Armenian talks that were held behind closed doors, Russia was busy with instigating Baku against Turkey. During this period, Azerbaijanis were motivated against Turkey through pro-Russian media in the country.

Despite the fact that the protocols on the establishment of diplomatic relations and re-opening of the borders were signed, it appears that the process is condemned to fail. It is obvious that Russia is the most beneficial side in this process and as Giragosian (2009, p. 5) states “Overall, the Russian role in Armenian- Turkish relations represents an important positive shift. This shift is due to the fact that it is now in Russia’s interest to maximize the Turkish-Armenian opening for its purposes. More specifically, Russian policy has long been opposed to any significant improvement in relations between Armenia and Turkey and the closed border was seen as a helpful way to maintaining Russian dominance over Armenia, as demonstrated by the continued presence of a Russian military base and Russian border guards in Armenia. But Russian policy shifted dramatically in the wake of the crisis in Georgia, with a possible Armenian- Turkish rapprochement only serving to bolster the Russian strategy to more completely isolate, marginalize and surround Georgia. Nevertheless, Russia will only remain supportive as long as the future direction of Armenian- Turkish relations remains under its control.”



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# *Standpoint of Armenia: The Karabakh Conflict in the Armenian Policy of Turkey: Genocide in the Relations between Armenia and Turkey*

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## **Styopa Safaryan**



*Styopa Safaryan is an Armenian politician, former member of the National Assembly of Armenia, currently a member of Yerevan City Council. Since 2012 he is the General Secretary of the Heritage Party. He is the founder of the Armenian Institute of International and Security Affairs. He graduated from the Geological faculty of the Yerevan State University (YSU), then from State Management and Local Self-government faculty of the State Management Academy of Armenia and had postgraduate studies at the Geological faculty of YSU. Safaryan is author of more than 50 scientific journalistic articles, analyses, three monographs and co-author of four collections.*

*This article was originally published in “Repair”. See under:*

*<http://repairfuture.net/index.php/en/genocide-standpoint-of-armenia/the-karabakh-conflict-in-the-armenian-policy-of-turkey>*

It seemed like the ideological optimism caused by the end of the Cold War in the system of the international relations will also irreversibly spur the normalization of the Armenian-Turkish relations, and the objective and subjective factors calling to life a new possibility and working in favour of reconciliation of antagonistic past will turn out to be more powerful than the ones who throw obstacles in the way.

However, the ideological optimism was the first to bedim quickly in the Caucasus, where, ethno-territorial conflicts open for the involvement of third parties, erupted, thus, shifting the perceptions of international relations into the field of realism and pessimism.

The conflict in and around Nagorno-Karabakh Autonomous Region was one of the bloodiest conflicts transferred to Soviet Azerbaijan in 1921 (mostly under the Bolshevik-Young Turks agreement) under Lenin-Stalin couple’s political decision, where firstly Turkey’s political-diplomatic and secondly military implicit involvement made the situation worse.

Initially the perspective of Armenian independence, which was guided by the claim of reunification with Armenia, and the one of self-determination and independence of the Armenian-populated enclave of Soviet Azerbaijan in compliance with the international law and Soviet legislation, was distressing for the Turkish political-scientific circles.



Already at the beginning of 1990 there were concerns that in case of the independence of Armenia Turkey would find itself in the Armenia-Greece claiming pincer [1]. The main concern was that the destruction of a small part of the Turkish-Bolshevik great deal might lead to the collapse of a larger agreement, by which the borders of the USSR and Turkey were drawn at the expense of splitting and transferring Armenian territories to the possession of Turkey and Azerbaijan.

Besides the above-mentioned Turkish subjective-hypothetical perceptions, Karabakh conflict was also objectively threatening to influence the Armenian-Turkish relations. At the early stage of conflict (1988-1990) Azerbaijan responded to the self-determination claim of Artsakh with the mass slaughter of the Armenians in Sumgait (February 1988), Baku, Kirovabad/Gandzak and elsewhere (January 1990) as well as with “Operation Ring” punitive action jointly with O.M.O.N. [2] (April 1991) and economic blockade thereafter.

Those actions evoked the worst associations not only with the Armenian-Azeri bloody conflicts at the beginning of the century but also with the Armenian Genocide implemented in the Ottoman Empire, which took the lives of one and a half million Armenians and the whole historic homeland. In the collective consciousness of the Armenians, indirect twisting of the knife in the Armenian-Turkish wound had already put the normalization of those relations under risk.

Despite this factor, the messages exchanged between Yerevan and Ankara in the earliest period of Karabakh conflict were about rapprochement intentions. According to the Chairman of the Supreme Council of the Republic of Armenia Levon Ter-Petrossian, “Armenia should establish relations inherent to civilized countries with all its neighbours, including Turkey. [3]”

On 7 January 1991 the President of Turkey declared about the plan to establish economic relations with Armenia [4]. On April 1991 Ter-Petrossian assured the Turkish Ambassador to the USSR Volkan Vural, who had arrived in Yerevan then, that Armenia was changing and wanted to become friends and was ready for any type of mutually-beneficial cooperation with Turkey, pointing out that “Armenia does not have any territorial claim towards Turkey [5].” The Turkish Ambassador passed an optimistic report to Ankara stating “that the new policy toward Turkey adopted by the current Armenian governing bodies is modern and is in the best interests of the two peoples [6].”

Conversely, Ankara was concerned about the interview given to “Argumenty i Fakty” (translated as Arguments and Facts) weekly by Ter-Petrossian on 11 May 1991 stating that after the failure of the idea of permanent revolution in Europe in 1920-1921, Soviet Russia turned its eyes on the East and in order to get support from Turkey and Muslim nations in its undertaking Armenia was amputated, yielding Kars province to Turkey and Nagorno-Karabakh to Azerbaijan [7].

Nevertheless, in June 1991 the Turkish Government tacitly approved a project on putting the port of Trabzon at Armenia’s disposal and creating a free trade port in Trabzon, jointly run by the Jewish businessman and Chairman of Alarko Holding İshak Alaton and the US Armenian businessman and Chairman of the Armenian Assembly of America [8] Hrair Hovnanyan. This great project raised a lot of goals, such as transferring natural gas and oil of the republics of Central Asia to Trabzon via Armenia and then to Western markets, as well as opening border points with Armenia, restoring the disaster zone, improving industrial enterprises and constructing Erzurum-Trabzon railway[9].

On September 11 during the meeting with the United States House of Representatives Ter-Petrossian declared, "There are serious historical controversies between Armenia and Turkey. The Armenian people cannot forget the Genocide of 1915 committed against it; their demand for the international recognition of the genocide is quite righteous and legal. But in spite of all this Armenia and Turkey should normalize their relations." [10]

Thus, before becoming an independent country, Armenia had already shaped its stance towards Turkey – no territorial claims towards Turkey, relations are normalized leaving aside historical controversies and irrespective of the process of international recognition of the Armenian Genocide.

However, especially the last among the mentioned points was a subject of concern for Ankara, which impelled Ankara to blockade even the minimal chances thereof in all its actions and

undertakings and apply a whole arsenal of a “thick-pancake-and-whip” policy towards lobbying organizations in Armenia and Diaspora in the sectors of economy, security and politics.

### **The beginning of the Turkish policy of preconditions**

After the independence of Armenia and Azerbaijan in the fall of 1991, as well as after the independence referendum of Nagorno-Karabakh on December 10 (On December 26 it was officially announced about the collapse of the Soviet Union), Azerbaijan applied to the war of aggression encircling the Armenian “rebellious” region in the ring of military actions and giving a start to the hostility phase of the conflict (1991-94).

In this phase Turkey provided Azerbaijan with not only political, diplomatic but also military assistance, especially when after the withdrawal of the Soviet troops from the Caucasus there was no any other alternative of restraining military forces. According to an article that was published in a 2000 issue of Survival magazine, Turkey had arranged "a secret airlift of 5000 rifles, ammunition and mortars to Azerbaijan via Nakhichevan" in mid-1991[11].

By casting a retrospective look not only at this but also at the historical events, the published facts make it obvious that Turkey encouraged Azerbaijan from the very beginning by showing an implicit military-political support to the latter in suppressing the separation claim of the Armenian-populated region. And on the diplomatic front, Turkey was trying to reach the elimination of the basis of the Armenian-Turkish claiming policy by exercising indirect pressure and economic bait on Armenia through this factor.

In December 1991, the Turkish press reported the Chairman of Alarko Holding Alaton having said that the lobbying organization of his Armenian business partner will give up its campaign for the Armenian genocide recognition as a result of the Armenian-Turkish joint venture. When the Armenian Assembly of America immediately denied it, the Turkish press subsequently accused İ.Alaton of lying for his own business interests [12].

Even though the Turkish government recognized the independence of the Republic of Armenia on 16 December 1991, it did not rush to establish diplomatic relations with Armenia. In a message of 24 December 1991 to Armenian President Levon Ter-Petrossian, Turkish Prime Minister Suleyman Demirel stated that “Turkey will develop mutually friendly relations with the Armenian government in accordance with OSCE principles”, which “imply accepting the territorial integrity of states and border inviolability”. [13]

In January-March 1992 when the membership applications were considered in the UN, CoE and OSCE, official Ankara tried to take “hostage” the Armenian issue and oblige Armenia to officially refuse pursuing Genocide recognition and claiming.

The following preconditions were set forth for the establishment of diplomatic relations: Armenia must (1) de jure recognize its present borders with Turkey by ratifying the Kars and Moscow Treaties, (2) not refer to the Armenian Genocide of 1915, officially abandon the efforts and claim to reaffirm it globally, adopt laws that would exclude racial, ethnic, religious intolerance in Armenia, as well as towards OSCE states, (3) criticize terrorism, not sponsor and not support organizations that have territorial claims, (4) exercise pressure on Nagorno-Karabakh to stop fighting and accept supremacy and territorial integrity of Azerbaijan.

The first three preconditions above were officially put forward by the Minister of Foreign Affairs of Turkey Hikmet Cetin in CSCE / OSCE meeting in Prague at the end of January, and the one referring to Nagorno-Karabkh conflict was added a short time later [14].

Arrived in Turkey by İshak Alaton's invitation to familiarize with the conditions of free trade zone in Trabzon on 13 February 1992, Hrayr Hovnanyan and Van Grigoryan were hosted by the Minister of Foreign Affairs of Turkey H. Ceti. The news appeared in the Turkish press. Ceti, who was accused of hosting "the enemies of Turkey and the leaders of the genocidal campaign" officially, explained that he had appointed meeting merely with Alaton without being aware of the presence of two Armenian lobbyists. İ. Alaton was forced out from the joint venture for "entrapping" the Minister of Foreign Affairs, while the real reason was that the two Armenian lobbying organizations had refuted the news spread by the Turkish authorities on abandoning the campaign for the international recognition of the Genocide.

### **Old hostility officialized with new conflict**

Military actions launched in the Karabakh conflict zone since February 1992 left dramatic effect on the process of the relations of Ankara and Yerevan which were still politically examining each other.

In response to the growing criticism on Ankara's "inaction and toleration of the Armenian "aggression"" regarding Karabakh issue in the Turkish society, the Turkish authorities launched the policy of repression and intimidation firstly through rhetoric and secondly through force.

After the events in Khojaly, on 4 March when making a speech in Izmir, Turkish President Turgut Ozal demanded that international community took more decisive steps to counter the "Armenian atrocities". Hinting at the possibility of armed confrontation, he pondered using Turkish military forces "to halt the Armenian progression." [15] The Turkish II corps near the border of Armenia (Kars-Sarighamish-Igdir) launched "Winter-92" military exercises, which gave rise to the concerns about Turkish invasion in Armenia. [16]

Already in March Turkey began to inspect the planes which were carrying humanitarian aid to Armenia which caused outrage in West. In response to the diplomatic queries, the Ministry of

Foreign Affairs of Turkey defiantly noted that "Turkey has no intention of changing its policy of checking planes flying to the region of Karabakh conflict under any outside pressure." [17]

Prompt and sequential liberation of Shushi on 9 May 1992 and Berdzor/Lachin corridor in 18 May as well as breakage of the imposed blockade caused outrage in Turkey. But the information about the military actions (battles) taken by Armenian forces to liberate the surrounding heights of Sadarak town of Nakhichevan caused even much more outrage, which resulted in discussions in Ankara on possible armed incursion based on the rights vested to Turkey under the Treaty of Kars. Chief of Staff of Turkish Armed Forces General Doğan Güreş announced that he "is ready to send as many soldiers to the zone of Karabakh conflict as requested by the Azerbaijani government." [18] Infantry general Muhittin Fisunoğlu announced that "all necessary preparations are done and the army is waiting for a command from Ankara in order to set off." [19]

On 18 May, the Turkish cabinet of ministers adopted a statement, warning that "Armenia is heading the wrong way. If it does not stand back from its aggressive politics, it will bear responsibility for the consequences." Speaker of Parliament Hikmet Zindoruk then announced, "Turkey's patience has limits. One should not test it too long." [20]

Immediately, Russia responded to the threatening statements on the invasion of the Caucasus. The Military Commander of the Commonwealth of Independent States, Marshall Yevgeni Shaposhnikov announced that "if another side enters there, we may find ourselves on the threshold of World War III." [21] It somehow softened the rhetoric of Ankara on the Karabakh issue, although did not prevent it from an obvious military ambitions. [22]

On 2 June in the interview to *Cumhuriyet*, a Turkish newspaper, Armenian President Ter-Petrosian criticized Ankara for "pursuing Panturanist policies in Central Asia and the South Caucasus and the aim of filling in the political vacuum that has emerged in the region."

He said, "Would Turkey not pursue such aims but instead develop its policies on the basis of cultural, scientific and economic developments, we would gladly welcome it. Armenia would participate in such cooperation with pleasure. We believe it would be very effective. [...] If there had been diplomatic relations between Armenia and Turkey [...] there would be peace in the region. But I think even now it is not late for this." [23]

On 14 June, during the meeting with Levon Ter-Petrosian in Rio de Janeiro the Prime Minister of Turkey Demirel intimated: "You cannot reach your purposes by war or clashes. [...] You are surrounded by Azerbaijan and Turkey. Unless you establish friendly relations with them, you will find yourself in serious problems and difficulties." Reacting to Ter-Petrosian's view that it was Azerbaijan not Armenia that started the Karabakh war, the Prime Minister of Turkey added: "If you want peace, then leave Shushi and Lachin. Moreover, you should know that we are following the events around Nakhichevan with deep concern. We advise you to solve your issues through negotiations with Nakhichevan and Azerbaijan ... Try to govern your country, and do not invite

other countries to interfere in your internal affairs. And do not allow the American Armenians to govern you and your affairs.”[24]

On 23-26 June 1992 the visit of the delegation headed by Levon Ter-Petrossian to Turkey to participate in the Black Sea Economic Cooperation summit had a certain positive impact in terms of continuing bilateral relations. [25] During the meeting with the Prime Minister Demirel the RA President mentioned that bilateral relations should not be conditioned by Armenian-Azerbaijan relations. Demirel underscored that he agreed in principle, however the blood was shedding in Artsakh and the only circumstance hindering the establishment of diplomatic relations between two countries were the lasting military clashes.

On 23-25 August 1992, a Turkish delegation led by the Bilgin Unan, the Turkish foreign ministry's deputy undersecretary, arrived in Yerevan. The Armenian side announced that Yerevan was ready to conclude an agreement on establishing bilateral relations with Turkey. While B. Unan mentioned that Armenia must recognize the territorial integrity of both Turkey and Azerbaijan. Regarding the very precondition, Yerevan explained that by joining UN, Armenia had committed itself to respect the principle of territorial integrity [26]. None the less, the parties agreed to end the negotiations regarding the issue of recognition of the existing borders in winter 1993, which was left unfinished. [27]

The Armenian-Turkish relations marred again on 10 September 1992 as a result of the statements made by the Armenian Foreign Minister Raffi Hovhannisian at a Council of Europe summit in Istanbul. In his statements he made reference to the Armenian Genocide, blasted Turkey for not establishing diplomatic relations with Armenia, obstructing Armenia's accession to the European institutions (CoE, CSCE), taking sides in the Nagorno Karabakh conflict, hampering the humanitarian aid to Armenia and for showing military support to Azerbaijan. R. Hovhanissian pointed out that “There are Turkish military advisers and officers in Azerbaijan”, and “there are great many reports about the transfer of weapons from Turkey into Azerbaijan.”[28].

### **From the policy of punishment to the threat of incursion**

In April 1993, the thread of successful offensive operations of the Armenian forces in Karvachar (Kelbajar) once more resulted in a great strain in the Armenian-Turkish relations. On 3 April, the Prime Minister S. Demirel warned that both Armenia and the world did not assess the patience of Turkey in the right way.

On 5 April, the day the Armenians captured Kelbajar, the Turkish Ministry of Foreign Affairs warned: "Armenia is trying to violate the territorial integrity of Azerbaijan by use of force and change the borders recognized by the whole world." On the same day Turkey closed “H-50” airspace to Armenia-bound flights, shut down the Kars-Gyumri railway and banned the transfer of humanitarian aid through its territory. [29]

Turkish President Turgut Ozal announced: "A corridor was opened from above and below and, in fact, bound this region to Armenia. There is no more a Karabakh issue; there are the Armenian wishes about the Great Armenia. [...] Do not ask me whether we would invade Armenia or not. But Turkey should calculate its steps well." [30]

Three army brigades of Turkey were mobilized near the Armenian-Turkish border under the guise of military exercises: "What would happen if during military exercises three of our bombs fall in the Armenian territory? What would happen if we sent 1-2 military brigades to Nakhichevan? We are bound to Nakhichevan with an agreement. What would happen, who would do us anything, who would come to intervene? Who could intervene in Bosnia? In world politics we can reach nothing without resorting to risk, "announced the President of Turkey through a number of rhetorical questions. [31]

His statements about the Armenian Genocide were quite dangerous, which deepened the wound more and more: "The Armenians learn nothing from history. In Anatolia, they also tried it. But they got an incredible slap in the face. And they have not forgotten the pain to this day. If they try it again here (in Azerbaijan), relying on this or that foreign country for help, they have something coming." [32]

With the Turkish parliament on the verge of concluding a military treaty with Azerbaijan, the White House warned "that it will not tolerate a third country's interference in the Armenian-Azerbaijani conflict." [33] On 17 April the Turkish president excluded the possibility of war against Armenia.

Within the scope of its policy to suppress Armenia, nothing was left to Ankara but periodically turn to the United Nations Security Council to provide diplomatic support to Azerbaijan, come out with a number of diplomatic initiatives in OSCE, as a result of which UNSC adopted 4 resolutions. Just after the first resolution Turkey declared that in case ignoring the resolution, sanctions should be imposed on the "aggressor", referring to the international compulsion.

By the early autumn Turkish troops had been on hair-trigger alert to enter Armenia and the Caucasus at the first opportunity. The collapse of Yeltsin's power and the success of the Putsch led by Khasbulatov and Ruchko in autumn 1993 should have created such an opportunity.

First Ambassador of Greece to Armenia Leonidas Chrysanthopoulos wrote about this time period in his chronicles, stating that on 5 October Ter-Petrossian told him that according to the resolution of the National Security Council on putting the army to the highest alert possible for them to be able to protect the country from the invasion of Turkey, in case a possible withdrawal of the Russian troops. As informed by Ter-Petrossian based on the information from various sources the Kurdish issue or the protection of Nakhichevan should have served as a pretext for Turkey. [34]

On 11 October the French Ambassador provided the Ambassador of Greece with the information (also confirmed by the American diplomats) from the intelligence service of his country, which,

based on the agreement reached between Ankara and Khasbulatov, read the following, “If he continues to hold office, he will enable Turkey to take limited actions in Armenia under the pretext of the Kurdish issue, as well as in Georgia for the safety of Abkhazia.” For this purpose the Russian troops should have been withdrawn from Armenia. Finally, on 12 October the Minister of Defense of Armenia Vazgen Sargsyan also provided the same information to the Ambassador, again speaking about upcoming “some important events” in Moscow and Turkish troops noticed to be fortifying along the Armenian border. [35]

It is noteworthy that on 26 July 1993 Ankara was preparing the pretext of intrusion on the campaign front. Turkish Minister of Interior Mehmet Gazioglu started accusing the Armenian government of ties with the Kurdistan Workers' Party (PKK). Armenia avowed that it had no connection with the PKK, and that there was no PKK office in Yerevan. [36]

On 4 October the failure of the plans to suppress Putsch in Russia and withdraw Russian troops from Armenia stopped the perspective of the limited actions of the Turkish armed forces in the Caucasus. And on 24 of the same month Nagorno-Karabakh got a reliable land communication and border also with Iran due to the Armenian military advances in the regions of Kovsakan (Zangelan) and Horadis - the Karabakh conflict zone.

### **The policy of closed border**

By the time the Karabakh conflict phase ended in May 1994 under the tripartite ceasefire agreement, Armenia-Turkey rapprochement had already ended a year ago with a unilateral closure of the border.

No matter whether Ankara related its action to the Karabakh issue firstly, no less was important the fact that it failed to reach the maximum, that is meeting four preconditions, neither through suppressions, intimidations nor through economic interests. Armenia did its utmost in the bilateral format announcing the absence of territorial claims.

Meanwhile Turkey, that was trying to return to the Caucasian region after a 70-year interval, participate in the Big Game, fill in the geopolitical vacuum as a result of ousting Russia, bolster its position in Transcaucasia and Central Asia by use of ethnic and cultural ties, was willing to get more both to insure itself from claiming and to meet its objectives of regional policy.

In the war against Nagorno-Karabakh and Armenia unleashed by Azerbaijan, by Turkey’s military-political-diplomatic support to Azerbaijan, Ankara itself joined two dimensions of the conflict - Armenian-Turkish and Armenian-Azerbaijani, thus refreshing the image of a Turk - the everlasting enemy in the eyes of the Armenians. Accordingly, the perspective of declutching them from each other is in its hands.

The official slogan "one nation, two states" defining the status of the Turkish-Azerbaijani relations and voiced from Ankara and Baku did not leave room for the victory of the thesis "Turks and Turkey have changed" among Armenians, paving its way for a more durable realistic perception – "The Turk remains a Turk".

By closing its border with Armenia in 1993, Ankara officialized the link between axes of two conflicts, conditioning the opening of the border by official Yerevan's territorial concessions in favor of Azerbaijan and refusing persecution of the Genocide recognition and Armenian claim, which up to date remains the backbone of hardline supporters. [37]

The Turkish-Azerbaijani joint policy to blockade Armenia and isolate from regional projects gave a perfect and complete picture of the Armenian policy of Turkey by adding Karabakh conflict - one more issue to not-so-easy issues of the Armenian-Turkish agenda, and Ankara neither can, nor wishes to get rid of the burden for the sake of justice.

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# *Local Government Elections in Armenia: Gaps, Shortcomings and Perspective for Improvements*

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*This article is based on Lilit’s Master thesis undertaken at American University of Armenia. The subject is of interest in all of the Council of Europe member states, as local and regional policy is regularly monitored within the CoE institutions*

## **List of Abbreviations**

ANM – Armenian National Movement  
ARF-D – Armenian Revolutionary Federation - Dashnaksutium  
CEC – Central Election Commission  
EC – Electoral Code  
IEOM – International Election Observation Mission  
LSG – Local Self-Government  
NDU – National Democratic Union  
NK – Nagorno Karabakh  
ODIHR – Office for Democratic Institution and Human Rights  
OSCE – Organization for Security and Cooperation in Europe  
PEC – Precinct Election Commission  
SOE - State of Emergency  
TEC – Territorial Election Commissions

## **Abstract**

**A well-known and simple definition of democracy is “government of the people, by the people, and for the people.” For any democracy free and fair elections are vital. Ideally, citizens have confidence that: (1) all kind**

of elections occur according to specified rules and usually at specific intervals; (2) candidates for office can freely and effectively present their positions and qualifications; (3) each voter's preference can be expressed freely; (4) each vote counts equally in determining the outcome; (5) only citizens entitled to vote will participate.

As a newly emerged and developing democracy Armenia should aim to establish and maintain an electoral system that meets these criteria. So far it has not. Local self-government elections are an essential part of democracy. However, similar to presidential/parliamentary elections they also do not meet universal international standards for democratic, free, fair, and competitive elections.

This study identifies the ways presidential/parliamentary elections influence the local ones, analyzes the current system of local government elections, and tries to give recommendations to address current shortcomings in the Armenian local government electoral system.

## **Introduction**

Free and fair electoral procedures and practice are considered to be among the key factors in the process of shaping democracy. Particularly election candidates and/or nominees should present their aptitudes and positions in a free and effective manner, distinctive rules should form the base for electoral procedures (defining election frequency), results should be determined on equally counted vote, election participants should be completely entitled for voting, and each voter should be able to freely express his/her preference. Development of an electoral system encompassing the above mentioned features is an essential way for a transitional and developing country to pass in its struggle to establish a healthy democratic government and society. Local government elections with their vital role in creation of decentralized and democratic government serve as an essential tool in establishing overall democratic society and atmosphere in a country.

In Armenia both presidential/parliamentary and local government elections significantly fall back from international standards. Presidential/parliamentary and local government elections are closely related to each other and shortcomings and fraud in one of them replicate in others. Especially, local governments in Armenia are politically weak and their elections are highly influenced by the presidential/parliamentary elections. Elections of local self-government bodies often times are a tool for leading political forces of Armenia to win in national elections. Often local government bodies lack legitimacy and do not meet international standards for democratic, free, fair, and competitive elections.

The goal of this paper is to examine local government elections in Armenia on its way to democratization and try to make recommendations for further improvement. To realize this goal I have developed the following research questions.

## Research Questions

The research questions of the study are:

What are the most frequently demonstrated shortcomings in Armenian local government elections starting from the legislative base up to the implementation?

Have the main shortcomings demonstrated in presidential and parliamentary elections affected local government elections in a positive or negative way?

In case of tangible influence (whether positive or negative) of presidential and parliamentary elections over local government elections, does the influence observed have vital effect on local government elections' final outcome?

Do the interests of the ruling party to preserve the power extend from presidential and parliamentary elections to the local ones?

## Literature Review

In order to answer to the research questions raised in the essay first of all we should consider and discuss the theoretical part, that is, to identify what kind of elections are thought to be ideal, that is, free, fair, honest, and legitimate and consider their importance for emerging democracies. So, let's see how different authors have tried to define those elections.

According to Goodwin-Gill (1994), regular and genuine elections, which give a real chance to people to choose their representatives, are a guarantor and the basis of having democratic country. Through elections the "will of people" is expressed. An internationally accepted definition to what is democracy tried to give the President of the USA Abraham Lincoln saying that "democracy is government of the people, by the people, and for the people." Various factors of the political systems are greatly influenced by electoral systems, according to Grofman and Lijphart (1994). They call electoral systems means for changing political systems.

"Although other elements of democracy can develop before competitive elections are held, a country cannot be truly democratic until its citizens have the regular opportunity to choose their representatives"<sup>43</sup>.

Thus, in a democratic country the "will of the people" should be counted and taken into consideration and they must be given the opportunity to express that will. If elections, whether presidential/parliamentary or local, are forged or bribed than the 'will of people' cannot be heard and consequently to be transformed into political power and public policies. So, what kinds of

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<sup>43</sup> [http://www.usaid.gov/our\\_work/democracy\\_and\\_governance/technical\\_areas/dg\\_office/epp.html](http://www.usaid.gov/our_work/democracy_and_governance/technical_areas/dg_office/epp.html).

elections are considered to be democratic, that is, free, fair, and legitimate? Answers to the questions are various but there are some internationally accepted standards that give us the minimum amount of norms for democratic elections.

The Organization for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) stressed in its publication called Handbook for Domestic Election Observers (2003) that each country's government is mainly responsible for ensuring of holding free, fair, and periodic elections in a country, for ensuring that all citizens have equal and universal suffrage, and elections are held by secret vote. Let's see how those criteria are interpreted in the handbook.

By saying free elections, one means that whether before, during or after elections fundamental freedoms and basic human rights should be maintained. During the election process there should be no violence, pressure, intimidation, or administrative manipulation. Both ordinary citizens and mass media should have free access to the process during the whole election process. In this regards, both international and domestic observers (mostly NGOs) have a vital role. Their presence in electoral stations is thought to reduce the chances for fraud elections and their regular presence over years and their opinions can give a base to a country for improvements by comparing the current elections to previous ones. Fair elections mean that competing candidates should be treated equally by the law and by the leading authorities. The Handbook says: *"Laws should be non-discriminatory and implemented fairly. All candidates who wish to run should be able to do so. Public resources should not be used unfairly. Public media should be even-handed. The election administration should act impartially. Voting, counting and tabulation should be free from fraud. Candidates who receive the required votes should be installed in office. Candidates and voters should have access to effective redress for complaints, including through an independent judiciary. Those responsible for violations of the laws should be held accountable"*<sup>44</sup>. Periodic elections mean that elections should be held at regular intervals as set by law.

By universal and equal suffrage all qualified citizens should be given a right to vote without any discrimination. There should be impartial voter registration system and all voters, as well as disabled people, women, and minorities should be able to vote. Each vote should have the same weight.

Under proportional representation, the number of representatives for each district should be proportional to the size of the electorate, and thresholds should not be so high as to effectively disenfranchise large numbers of voters. Under majority voting systems, the population of, or number of voters in, constituencies should be approximately equal; a variance of more than 10 percent could be cause for concern<sup>45</sup>.

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<sup>44</sup> Handbook for Domestic Election Observers, OSCE/ODIHR, 2003, 17.

<sup>45</sup> Handbook for Domestic Election Observers, OSCE/ODIHR, 2003, 18.

Vote by secret ballot means that voters should be able to mark their ballots alone in the voting booth so as the marked ballot cannot be viewed before appearing in the ballot box and that later the marked ballot cannot be tied to a particular voter<sup>46</sup>. Goodwin-Gill (1994) also mentions that elections should be held by secret ballot at rational intervals and there should be a representative government as it should be accountable to the elected legislature which in its turn should express and represent the “will of the people.” Any deviation from the above norms raises a question of adequacy of elections.

According to Lehoucq (2003) electoral fraud can have such types as coercion on voters at polling stations to cast ballots for party/candidate X or filling the ballot box with votes for party X; ballot substitution; preventing opposition voters to cast ballots; stuffing ballot boxes with false voters; a polling station opening late and closing early; locating polling stations in inaccessible places; having citizens vote repeatedly or on behalf of deceased, nonexistent, or opposition voters; or during the vote counting, falsely claiming that opponent candidates had withdrawn from competition. Daniel Ziblatt (2008) mentions three groups of electoral fraud: (a) coercion and threats from state officials, church officials, or employees to induce voters to vote for a particular party or candidate; (b) vote-buying to inflate or depress votes and turnout; (c) systematic procedural violations, vote-rigging, closing of poll stations early, the manipulation of voter-registration rolls, and the failure to advertise elections or to distribute ballots in certain constituencies.

Causes of electoral fraud also vary. According to Lehoucq (2003) one cause can be the wish of incumbent/leading political powers to preserve or achieve control over state. Economic interests can also have a role. Ziblatt (2008) mentions: *“Even in the presence of uniform rules of universal male suffrage, in such settings landed elites were more likely to ‘capture’ the key local institutions of the state, providing them with the coercive and material resources to disrupt fair and free elections in order to defend the countryside oppositional mobilization efforts”*<sup>47</sup>. In other words, the main goal of electoral fraud is to preserve the political/economic power of particular people.

In Armenia elections were used as formal tools to further legitimize the power of incumbents, instead of providing the citizenry with a free and fair choice of policy alternatives. All elections in Armenia have been marked by numerous electoral violations. Almost all the formal and financial resources of the state, as well as other state assets used by the ruling party and incumbent political elite with the purpose of ensuring the victory of either the party or the president during elections.<sup>48</sup>

During twenty years of independence of Armenia the country has had three presidents (Levon Ter-Petrossian, Robert Kocharyan and Serzh Sargsyan), and due to the informal networks “radiating” from the incumbent presidents, state power has been concentrated in the executive, leaving no

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<sup>46</sup> Handbook for Domestic Election Observers, OSCE/ODIHR, 2003.

<sup>47</sup>Ziblatt, 2008, 33-34.

<sup>48</sup>Wheatley and Zürcher, 2008.

room for “checks and balances”<sup>49</sup>. All the victories these people/the parties they directly/indirectly represent to power were gained and solidified by means of fraud and manipulation. Levitsky and Way (2002) mention: *Although elections are regularly held and are generally free of massive fraud, incumbents routinely abuse state resources, deny the opposition adequate media coverage for the opposition, harass opposition candidates and their supporters, and in some cases manipulate electoral results. Journalists, opposition politicians, and other government critics may be spied on, threatened, harassed, or arrested. Members of the opposition may be jailed, exiled, or-less frequently-even assaulted or murdered. Regimes characterized by such abuses cannot be called democratic.*<sup>50</sup>

To preserve the power for so long time president or leading parties use an “institutionalized system of rewards and punishments”. Loyalty is rewarded by what can be described as a ‘license to be corrupt’ (i.e., to avoid the formal rules and to tap into the lucrative shadow economy). On the other hand, disloyalty is punished, often by selectively and arbitrarily applying the law against the culprit... ..within this system, corruption, far from being a sign of regime weakness, is actually an instrument to ensure regime stability, as the state leadership is able to control its clients and strengthen hierarchical authority.<sup>51</sup>

In such a way strong political networks are created, at the top of which has been always the president. Whenever public intervention in political matters is possible, society has been threatened, bribed, and repressed. This has brought to the separation of political and economic elites from the rest of society.

Manipulation of elections, however, is not an easy process as incumbents have to spend large amounts of money for bribing the people. Besides, these flaws and manipulations can bring to instability and political crisis in the country. Despite all this manipulations, violations, and electoral fraud, elections are regular and competitive. The existence of representatives of various NGOs and international observers reduce the possibility of fraud.

In the beginning of the discussion, we have mentioned that free and fair elections contribute to democratization of a country, so fraudulent elections hinder and obstruct it. Though electoral fraud and manipulation can have non decisive influence and outcome for elections, it will reduce public trust in elections and in political powers and processes overall. “...regardless of whether fraud is decisive, it encourages incumbents and opponents to discredit elections and their outcomes.”<sup>52</sup>

The practice records show that since the declaration of independence all Armenian elections had various types of electoral manipulations and fraud. Range of facts exists in this regard. For example, by the Opinion of Council of Europe Observers, local elections in Yerevan in 2008

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<sup>49</sup> Wheatley and Zürcher, 2008, p. 6.

<sup>50</sup> Levitsky and Way, 2002, p. 53.

<sup>51</sup> Wheatley and Zürcher, 2008, p. 23.

<sup>52</sup> Lehoucq, 2003, 248-249.

lacked transparency in both voting and counting procedures. They said that more attention should be paid to the strengthening of local democracy in the Republic of Armenia.<sup>53</sup>

According to “Partnership for Open Society”, an open coalition of a number of interested civil society actors in Armenia that strive for promotion of democratization of Armenia, Armenian elections have numerous instances of violations.<sup>54</sup>

According to the Gallup Polls conducted in 2007 and 2008 among 134 countries worldwide Armenia ranks as a country that has the lowest trust in the honesty of its own elections<sup>55</sup>. The polls also found out that: corruption level (as rated by Transparency International) is positively related to the level of mistrust in electoral honesty; and well-being (according to results from 97 countries collected by Gallup) is positively related to the trust in honest elections<sup>56</sup>. Thus, countries having higher corruption level are ranked low in the trust in the honest elections and countries with higher well-being index scores are ranked high in the trust in the honest elections.

In 2005 comments by Harut Sassounian<sup>57</sup> on the referendum on proposed constitutional changes in Armenia three factors were critical in driving allegations of serious abuse and fraud by foreign observers and opposition politicians<sup>58</sup>. These three factors are: (a) the old habit of tampering with all elections, even when fake ballots were unnecessary for a successful outcome; (b) the inclination of local government officials to help win the election by all possible means in order to preserve their current positions or to be rewarded with more lucrative jobs after the election; and (c) given the mandatory one-third threshold, local officials’ intent to go overboard in order to ensure that they do not fail again to garner the minimum number of voters as they did in the referendum two years ago<sup>59</sup>. The author mentioned that it is not the “transparent ballot boxes and international observers” that may make Armenian elections better. Rather the public at-large should abide by the rule of law which, in turn, will lead to uncorrupted “cops, judges, and government officials” and consequently to honest elections<sup>60</sup>.

Many observers think that after numerous amendments, recommended especially by OSCE/ODIHR, Armenia’s formal legal framework is really strong. However, administration and implementation are severely lacking. International observers said that the parliamentary elections

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<sup>53</sup> <http://www.hra.am/eng/?page=issue&id=18739>.

<sup>54</sup> <http://www.hra.am/eng/?page=issue&id=18415>.

<sup>55</sup> <http://www.gallup.com/poll/111691/Worldwide-Views-Diverge-About-Honesty-Elections.aspx>.

<sup>56</sup> <http://www.gallup.com/poll/111691/Worldwide-Views-Diverge-About-Honesty-Elections.aspx>.

<sup>57</sup> Harut Sassounian is the President of the United Armenian Fund, which has sent \$460 million worth of humanitarian assistance to Armenia since 1989 and the Vice Chairman of the Lincy Foundation, which has funded \$230 million worth of infrastructure projects in Armenia and Artsakh.

<sup>58</sup> [http://www.armeniapedia.org/index.php?title=No\\_One\\_Should\\_Have\\_Been\\_Surprised\\_By\\_the\\_Latest\\_Questionable\\_Election](http://www.armeniapedia.org/index.php?title=No_One_Should_Have_Been_Surprised_By_the_Latest_Questionable_Election).

<sup>59</sup> [http://www.armeniapedia.org/index.php?title=No\\_One\\_Should\\_Have\\_Been\\_Surprised\\_By\\_the\\_Latest\\_Questionable\\_Election](http://www.armeniapedia.org/index.php?title=No_One_Should_Have_Been_Surprised_By_the_Latest_Questionable_Election).

<sup>60</sup> [http://www.armeniapedia.org/index.php?title=No\\_One\\_Should\\_Have\\_Been\\_Surprised\\_By\\_the\\_Latest\\_Questionable\\_Election](http://www.armeniapedia.org/index.php?title=No_One_Should_Have_Been_Surprised_By_the_Latest_Questionable_Election).

of 2007 despite tangible advances still displayed shortcomings<sup>61</sup>. They criticized also presidential elections held during the following year<sup>62</sup>.

Taking into consideration all deviations and the existence of what seems to be an appropriate legal framework, Armenia would appear to be an example of the “competitive authoritarian” style of governance which is widespread among former republics of the Soviet Union. Competitive authoritarianism is characterized as a political system which has regular and competitive elections but those are always violated and manipulated by the incumbent political powers<sup>63</sup>. All these viewpoints of intellectual people relates to all kind of elections, whether presidential/parliamentary or local self-government (LSG) bodies.

Electoral systems or political regimes of different countries reasonably vary based on the culture, traditions, etc. However, there are some universal international standards which are accepted as basic factors for having democracy, such as that election must be free, held by secret ballot at rational intervals, guarantee universal suffrage to the adults, and so on. Through periodic and genuine elections people convert their will into having its representations in the government. For the countries in transition, like Armenia, often times both political powers and people do not consider elections either free or legitimate as they do not accept the results of elections.

## **Methodology**

For the purpose of addressing the above mentioned questions and hypothesis the following methods have been used: analysis of laws and relevant documents, primary and secondary data analysis in the field, in-depth interviews with representatives of the ruling and two opposition party representatives, as well as the president of “It’s Your Choice” NGO. This NGO was chosen as it is one of the largest domestic election monitoring organizations in Armenia with a mission: “...to promote transparent elections and democratic processes in Armenia, establishment of government accountable to its constituency and provide objective, reliable and timely information to Armenian voters.”<sup>64</sup>

Interviews have been conducted according to a pre-designed questionnaire with open-ended questions.

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<sup>61</sup>Election Observation mission Report. Republic of Armenia Parliamentary Elections 12 May 2007.

<sup>62</sup>Election Observation Mission Report, Republic of Armenia Presidential Election 19 February 2008.

<sup>63</sup>Howar and Roessler, 2006, Diamond 2002.

<sup>64</sup> ICY, 2007.

## Findings and Analysis

### Overview of the Armenian Elections

On 21st September of 1991 Armenia declared its independence from the Soviet Union and became a democratic republic. With this collapse the old Soviet regime was replaced by the new one.

The first elections taken place in independent Armenia were parliamentary elections held in October 1991. Ironically, many people consider the first elections - both presidential and local - as the most free and fair elections in the newly independent Armenia. Subsequent elections (parliamentary elections in 1995, 1999, 2003, 2007, presidential elections in 1991, 1996, 1998, 2003, 2008, and local elections in 1996, 1999, 2002, 2005, and 2008, including extraordinary elections taken place in the years between) were reported to have numerous shortcomings and inconsistent with the international standards for democratic elections, according to the OSCE/ODIHR international observers, who has observed Armenian elections since 1996.<sup>65</sup>

In the first presidential elections, which took place in 1991, Levon Ter-Petrossian (who represented the Armenian National Movement (ANM)) was declared a winner having 83 percent of votes against six other candidates.

In June 1995 parliamentary elections were held along with the first Constitutional Referendum that adopted Armenia's new Constitution. "Free but not fair" was the mark that these elections received from OSCE observers. In September 1996 Ter-Petrossian was re-elected as president with official results giving him 51.75 percent of vote. However, the existence of extensive fraud was undeniable. The oppositional candidate Vazgen Manukyan who headed the National Democratic Union (NDU) claimed that the election was dominated by fraud and the results were not legitimate. At that time the situation escalated in the country and a State of Emergency (SOE) was declared by the president. Unfortunately we can see that these events served as a bad precedent for later elections in Armenia. These fraudulent elections as well as compromising policy of Ter-Petrossian regarding the Nagorno-Karabakh (NK) issue brought to the resignation of the president in 1998 and the Prime Minister Robert Kocharyan assumed the duties of acting president<sup>66</sup>.

On 10<sup>th</sup> of November 1996 first local elections took place and the system of *local self-government* has been established in the Republic of Armenia. As we look into the reports of international organizations and various NGOs it becomes obvious that all local elections have always been full of electoral manipulations, such as vote buying, ballot stuffing, etc., in other words, phenomena common also in Armenian presidential and parliamentary elections.

In 1998 an extraordinary presidential election took place when Robert Kocharyan became a president of Armenia. However, fraud and manipulation were once again the inseparable part of

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<sup>65</sup>Policy Forum Armenia, 2008.

<sup>66</sup>Policy Forum Armenia, 2008.

the election. In this election OSCE observers noticed many cases of ballot box stuffing, discrepancies in vote counting, and fraud perpetrated by local authorities inflating the number of votes for Kocharyan. The next presidential election was held in 2003 when Kocharyan was reelected and the new five-year period of his presidency began. The election was marked as fraudulent by the OSCE observers too. The latest parliamentary election, that is, on May 12, 2007, were marked by OSCE observers as “largely democratic” and with “significant improvements”. Armenian public television also declared that the election could be considered the best since independence<sup>67</sup>. Signs of improvements were shadowed by the latest presidential election of February 19, 2008. Both election and post-election developments were marred by the use of force, deaths, and arrests.<sup>68</sup> OSCE reports on this election were different as the preliminary findings indicated that the election was “mostly in line” with international standards while the final report spoke about the reverse.<sup>69</sup>

As one can see from the historical developments of the Armenian elections, they cannot be called democratic. It is not a secret that elections and political regimes are tightly interlinked.<sup>70</sup> In Armenia, unfortunately, there were even cases of assassinations and murders, which accompanied both electoral developments and political intercourse. Fraud and manipulation were the tools exercised during and after elections. Later, we will examine the types of frauds that took place in the recent two elections, parliamentary and presidential, from both legislative and administrative implementation perspectives.

## **The Main Shortcomings in Local Government Elections**

### *Legal framework*

The two main documents that constitute the legislative framework for all kind of Armenian elections are the Constitution and Electoral Code of the Republic of Armenia. The first one, the Constitution, guarantees civil and political rights, and fundamental freedoms and the second one, the Electoral Code, is the primary legislation regulating elections.<sup>71</sup>

Since its adoption in 1999 the first Electoral Code of Armenia has witnessed fourteen amendments originating in the need to address practical problems encountered during elections. In 2011, while this study was in progress, National Assembly adopted a new Electoral Code. The main external role in commenting on the election processes and suggesting improvements to the electoral code

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<sup>67</sup> Policy Forum Armenia, 2008.

<sup>68</sup> Human Rights Watch 2008.

<sup>69</sup> Election Observation Mission Report, Republic of Armenia Presidential Election.

<sup>70</sup> Grofman and Lijphart 1994.

<sup>71</sup> Election Observation Mission Report, Republic of Armenia Presidential Election 19 February 2008.

has been undertaken by the OSCE/ODIHR and the European Commission for Democracy through law the Venice Commission (an advisory body of the Council of Europe).

The Electoral Code governs all Armenian elections: presidential, parliamentary, and local. The preparation of it took place consulting with the Venice Commission of the Council of Europe and the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe (OSCE).

Many important improvements have been made to the first Electoral Code of Armenia. The positive outcomes of these improvements are evident in the reports on elections by OSCE/ODIHR, compared to the previous ones.

Although “the Electoral Code provided a sound basis for the conduct of democratic elections” still there is a little room for perfection and need for reconsideration of some aspects in the Electoral Code.<sup>72</sup>

As the practice shows, even with having a sound legal base of electoral procedure, in Armenia both presidential/parliamentary and local self-government elections demonstrate wide range of implementation shortcomings. In case of local government elections the legal basis for regulating elections are the Constitution, the Electoral Code of the Republic of Armenia, and the Law on Local Self-Government.

As our research questions have the goal to observe connections and correlations of presidential/parliamentary and local government election, we will look at all points from those two perspectives.

First legal shortcoming in LSG elections is that there is no limitation in law regarding number of times that the Mayor can be re-elected. A tryout occurred to do an improvement in this regards in 2005 when an amendment has been made in the previous Electoral Code that the same person could not be re-elected two times consequently as a head of community (Article 123.9, the Electoral Code with amendments of 19.05.2005). However, after one and a half year the article was removed by another amendment in the Electoral Code on 22 December, 2006. Newly adopted Electoral Code does not contain this limitation, too. This means that a mayor can run for an office as many times as he/she wants. This provision does not restrict corrupt incumbent to be continuously re-elected. Besides, in Armenian reality it reduces chances to have representative local democracy. In a sound democracy this type of limitation is less important because the constituents would simply do not re-elect a poorly performing mayor and on the contrary, a brilliant mayor would have a chance to be re-elected as many times as he/she is still better than other competing candidates. However, we consider this kind of restriction important because no matter how good is the person in office, chances should be given to his/her opponent to run for that post when next elections come. In Armenian context, absence of such restriction is beneficial

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<sup>72</sup>Election Observation Mission Report, Republic of Armenia Parliamentary Election 12 May 2007, 5-

to the person in office because he/she typically has a lot of administrative resources, which gives him/her an advantage in the elections.

Second the official compensation amount of the Mayors and especially staff defined by the law is too small to meet decent living standards. This factor positively impacts the probability of corruption. As to council members, they are not paid for their services at all, except a monthly pecuniary compensation of expenses at the maximum rate of 30 % of the monthly salary of a member of the National Assembly of the Republic of Armenia (Article 23 of the Law on LSG). In practice very few council members receive this compensation.

Third, as the defined amount of money/deposit required for a candidate to be registered is hardly affordable for an average rural resident (with high poverty rate in rural areas), electoral competition rate and opportunity for alternative choice fall down breeding misrepresentation (the minimal deposit for nomination as a head of community is fifty times the minimal monthly salary). In the case of presidential and parliamentary elections this amount is much bigger (respectively five thousand times the minimal monthly salary and 2500 times the minimal monthly salary), however, one should take into consideration that those who nominate their candidacy for a presidency can afford to pay this money.

Requirement for a candidate to make a deposit for registration raises some questions. The size of deposit is in fact the problem. For now, there is a possibility that some people who enjoy public support may be excluded from the contest if they are unable to pay the deposit. The problem exacerbated with provision of the new Electoral Code (2011) as the amount of deposits obviously grew bigger. If in the past a candidate for the Mayor in a community with up to 5000 population paid 50 times of the minimum salary and candidates for community council with the same population – 10 times, now, for example, in a community with 2000-4000 population they have to pay respectively 150 and 20 times of the minimum salary<sup>73</sup>.

### *Conducting and Financing the Campaign*

Campaign financing also raises questions of democratic propriety and fairness. Article 79.9 of the old Electoral Code forbids financing promotional campaigns by “other financial means”<sup>74</sup>. However, the law contained no specification concerning donations (i.e. goods or services provided to a candidate free of charge). This provided an all-too convenient means to bypass the expenditure ceiling, intended to create more equal campaign opportunities.<sup>75</sup> This Article has been removed from the new Electoral Code, at all<sup>76</sup>. An evident flaw in the legislation, which leads to evasion of

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<sup>73</sup> <http://www.hraparak.am/2011/06/27/tim/>.

<sup>74</sup> Electoral Code of the Republic of Armenia as of November 2007, Strasbourg 1 July 2008.

<sup>75</sup> Election Observation Mission Report, Republic of Armenia presidential Election 19 February 2008.

<sup>76</sup> Electoral Code, 2011, Article 88.

the restrictions on campaign financing, is the allowed linkage of some non-profit and commercial organizations with political parties or candidates. This creates indirect support to elections campaigns.

Such a problem exists concerning LSG elections, too. According to the old Electoral Code (2007) (in contrast to the above mentioned point), there is no official limitation for the size of election campaign funds (Article 128 of the EC, 2007, Article 140 of the EC, 2011), which in its turn greatly raises different treatment issues for candidates. For example, paid media interviews and broadcastings sometimes are considered to be luxury means for some rural community candidates. However, the new Electoral Code (2011) is an obvious step forward. Though it still lacks strict line for the election campaign funds, it stipulates that only a candidate for a Mayor in a community with more than 10,000 voters can open pre-election campaign fund (Article 140 of the EC, 2011). The amount of money paid to the fund has been clarified according to the population of the community, for example, a candidate of LSG election in a community with up to 10,000 voters can pay to the fund amount equal to 150 times of minimum salary, and a candidate for Mayor or council member in a community with more than 10,000 voters can pay up to 500 times the minimum salary (Article 140 of the EC, 2011).

Another important issue is the flexibility of the start date of campaign activities. In other words, the Electoral Code does not exactly specify if the nominated candidates are permitted to start their campaigning prior to the official campaign period, both in presidential/parliamentary and LSG elections. The new Electoral Code says: “Determination (appointment) of the period of pre-election campaign does not limit implementation of the campaign within another period not forbidden by the Code.” (Article 18.1, Chapter 5, EC, 2011). Besides, the Electoral Code does not specify how to differentiate between regular political party activities and campaign activities.

### *Complaints and Appeals Procedure*

Public trust can be a good prerequisite for the conduct of honest elections. So, the efficiency and effectiveness of the complaints and appeals are considered by both the international observers of the OSCE/ODIHR and the Venice Commission as key foundations for public trust in the electoral system.

In many cases territorial election committees (TECs) refuse appeals for a recount with the claim that the need was unsubstantiated. After the appeals go to the CEC it does not exercise its power and the recount often times does not happen. So, the Code should directly address this issues and clear out “... on what grounds the TEC can refuse to undertake a recount. It should also ensure

that the CEC makes a considered decision in the case of an appeal or is requested to forward the case to the Administrative Court”<sup>77</sup>.

The ease of submitting and timing for processing of complaints and appeals are additional considerations. The filing of a complaint should not be too formalistic nor should the time allowed for an appropriate response be too long. For example, “appeal deadlines need to be harmonized to ensure that an appeal after the first round can be decided by the Constitutional Court before a second round has been held” (Joint Opinion on the Electoral Code of the Republic of Armenia as amended up to December 2007, Venice, 17-18 October 2008, 15). Also, the competencies and roles of the election commissions in the complaints and appeals processes should be clarified.

Additionally, the Electoral Code could still be improved, particularly in the areas of electoral administration and election complaints. Of particular concern for the Commission are the provisions for filing election complaints and appeals, which fail to create a sound legal framework for the adjudication of election disputes and protection of suffrage rights.<sup>78</sup>

As a final point, there is the question of double voting and the availability of simple ways to reduce or avoid it. The Electoral Code has no requirement for the stamping of voters’ identification documents or inking of fingers, safeguards that have proved to be very effective elsewhere.<sup>79</sup> To conclude, a variety of flaws in the framework erected by statute law leave considerable room for electoral abuse and manipulation.

## **Implementation of the Electoral Code**

The most important and influential shortcoming in meeting the criteria for free and fair electoral system establishment remains the deficient implementation/administration of elections. A number of diverse cases of the legal framework and its implementation mismatching have been observed.

The ability to implement the law well must be considered inseparable from an effective electoral process. Shortcomings may exist not only within the law but also in the implementation of the law.

The democratic character of elections depends largely on the responsibility of the authorities to properly implement the electoral law, and the commitment of all other election stakeholders (voters, candidates, parties, media, etc.) to conduct democratic elections. Thus, the extent to which

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<sup>77</sup>Joint Opinion on the Electoral Code of the Republic of Armenia as amended up to December 2007, Venice, 17-18 October 2008, p. 15.

<sup>78</sup> Harutyunyan, Voter Registration and Voter Lists. Correction of Inaccuracies Before and on Election Day, 2006, from “Final Opinion on the Amendments to the Electoral Code of the Republic of Armenia” prepared by the Venice Commission and OSCE/ODIHR, October, 2005

<sup>79</sup>Joint Opinion on the Electoral Code of the Republic of Armenia as amended up to December 2007, Venice, 17-18 October, 2008.

possible improvements in the law can have a positive impact on the election process will mainly be determined by both the will and the capacity of the electoral authorities and other election stakeholders to respect and implement the law in an effective and non-partisan manner.<sup>80</sup>

As the international observers noted several times the main shortcomings in the implementation of the Electoral Code resulted from the lack of adequate will to execute legal requirements neutrally and effectively. It is not an overstatement to claim that, in Armenia the majority of electoral deficiencies are due to deviations from and circumventions of the law.

### ***Equal Treatment of the Election Contestants***

Equal treatment of the election contestants is among the key factors necessary for an election to be called democratic and in line with international standards. There were several violations of this requirement both in local and presidential elections.

One concerns the demonstration of campaign materials. According to the Electoral Code, community leaders have to assign places where the candidates' promotional materials can be displayed (Electoral Code of the Republic of Armenia as of November 2007, Strasbourg 1 July 2008, Article 21.2, as well as Electoral Code, 2011, Article 20.3). However widespread violations of this provision had been observed. For example, some mayors specified locations while others did not; posters were often placed in non-specified areas; many posters and billboards were periodically removed by persons unknown but presumed to be affiliated with the rivals of those candidates the materials promoted. At the same time, campaign materials on behalf of the Prime Minister were placed in unauthorized locations but remained untouched.<sup>81</sup> The new Electoral Code (2011) addresses the issue stressing that a head of community should determine the building/space for a respective polling station and it is a mandatory responsibility for him/her. If there is no appropriate number of buildings for that, the head of community can rent other ones. LSG bodies can make available free halls and other building to candidates for meeting with voters. And the list of the buildings should be published in the CEC's web-site 20 days prior to the election (Electoral Code, 2011, Article 18.3)<sup>82</sup>.

### ***Electoral Rights and Freedoms***

The Electoral Code of the Republic of Armenia states that all citizens have the right to campaign for or against any candidate (Electoral Code of the Republic of Armenia, 2007). Despite this statement, there were many instances where observers were concerned about freedom of electoral choice and political expression among public sector employees many of whom were pressured to

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<sup>80</sup> Draft report on Electoral Law and Electoral Administration in Europe Strasbourg, 16 May 2006, p. 13.

<sup>81</sup> OSCE, Republic of Armenia, Presidential Election 19 February 2008 Statement of preliminary Findings and Conclusions.

<sup>82</sup> <http://www.parliament.am/drafts.php?sel=showdraft&DraftID=23456>.

support the Republican Party candidate. Non-compliant employees were threatened with bad consequences including threats of dismissal. There were reported many instances of government employees being forced to attend the Prime Minister's campaign events. Such coercion contradicts the law, blurs the distinction between party and state, undermines equal campaign opportunities, and inhibits the rights of citizens to free electoral choices.<sup>83</sup>

### ***Exceeding number of voters***

First, it has become a routine practice to see exceeding number of people entitled to be present in voting places, which in its turn pressures a voter to make his/her free choice (Article 54.4 of the EC) (It's Your Choice, LSG elections of 2008; It's Your Choice, Presidential Elections of 2008).

### ***Presence of unauthorized people in polling stations***

Illegal (no law or official regulation found legalizing a policeman presence in voting place) presence of police has been greatly observed in and around almost all voting places through time and type of elections that creates strong physiological and physical image of state force indirectly intimidating voters (Electoral Code, 2007, Article 54.2) ( Electoral Code, 2011, Article 63.5).

### ***Voter Lists***

The ability to exercise the democratic right to vote is based on the existence of a comprehensive and inclusive voters list, which is maintained to ensure that each eligible citizen is registered to vote once and only once. Inaccuracies in voter lists are among the most frequent types of violations during the election process. Examples of violations presented by the OSCE or IEOM are supported by the number of court cases, and also by the report of "It's Your Choice" (IYC) - a nonpartisan NGO, which is the largest domestic election monitoring institution.

Based on analyses of cases and interviews of the IYC practitioners, the most common issues are voters' names missing from the list and obsolete voters' lists in a number of communities. The amendments to the Electoral Code, that created a permanent national register of voters, constitute a positive change in this regard. To this end, speaking of the Electoral Code's shortcomings it is also worth mentioning the Venice Commission's opinion regarding the amendments, which, in summary, states: "*Although the amendments to the Electoral Code constitute overall improvement, good faith implementation of the Code remains crucial for the conduct of genuinely democratic elections. Electoral rules facilitate fair elections and democratic results only if they are not*

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<sup>83</sup>Election Observation Mission Report, republic of Armenia Presidential Election 19 February, 2008.

*neglected nor abused by the authorities responsible for their implementation. Most international observers have pointed out that the biggest shortcoming in the conduct of elections in Armenia lies in the implementation of the Electoral Code, not in the Electoral Code itself. Among the most important concerns has been the failure by authorities to take measures against those violating the election law. Therefore, the success of the amendments depends on the implementation of them in practice”<sup>84</sup>.*

### ***Violation of the Electoral Procedure***

Anonymity of voters is widely violated by different means such as open and vivid voting procedure (installation of observable and controlled voting places/arrangements) and group entry to limited/separated voting place (Articles 48 and 56). According to the new Electoral Code (2011) voting places should be placed so as a voter will stand by face to the committee and back to the wall (Article 56).

### ***Vote Counting***

Vote counting process mainly was poor in all the Armenian elections. Major problems of vote counting were manifested in accountability and transparency. The main shortcomings were: inconsistencies in determining valid votes, unwillingness to show marked ballots, attributing votes for one candidate to another, signing protocols before completing the vote count, signing blank protocols, changing data entered in protocols, and failure to display protocols publicly as required by law<sup>85</sup>.

The law states that all election commissioners must undergo training and receive a certificate of qualification. However as evidence show the PECs often did not have the predetermined level of familiarity with the procedures involved. Many result protocols had been filled out incompletely or incorrectly by the PECs. The main problems during the vote counting process stemmed from the improper implementation of the Electoral Code. According to the law, the vote counting must be conducted under special supervised circumstances, with only authorized persons present, and the procedure must be continuous, i.e. without interruptions. Despite these provisions, the presence of unauthorized persons and frequent use of cell phones by PEC members reporting the details of the counting while in progress was observed<sup>86</sup>.

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<sup>84</sup>Tumanyan, 2006.

<sup>85</sup>Election Observation Mission Report, 2008, p. 2.

<sup>86</sup> Election Observation Mission Report, 2007.

### ***Ballot Staffing and Vote Buying***

Both in local government and presidential/parliamentary elections instances of ballot stuffing were witnessed by the IEOM. Decisive cases of vote buying and choice enforcements have continuously taken place in presidential, parliamentary, and self-government electoral reality of Armenia (provision of transportation means, employee intimidation by the politicized management and administration).

It is noteworthy to mention here the discovery of a prominent tool by Armenian ‘political technologists’ called “carousel” that has been extensively exercised for years. The mechanism works in the following way: the voter is secretly given an already marked ballot (marked in favor of the candidate X) by a person campaigning for a candidate. The voter before approaching the ballot box gets a clean ballot and after receiving it she/he casts the marked ballot bringing out the unmarked one that she/he has been passed by the election authorities. Later, before leaving the polling location this unmarked ballot is given to the person who gave her/him the marked one in order to be marked secretly and be given to the next voter. Once the unmarked ballot is turned in, the voter gets his/her promised payment. This mechanism totally eliminates the freedom of choice of those somehow depending on the candidate X and helps assure the victory of that candidate. The vicious cycle continues again and again. For example, the mechanism was used also during LSG elections in Yerevan in 2008 (*It’s Your Choice*, 2007).

Vote buying is also widespread phenomenon in Armenian electoral practice. Many voters are offered money just at the polling stations to vote for a candidate X or PEC members are offered money in order not to be present at the vote counting. Significant frequency of ballot stuffing brings to the following statistical observation: ruling party representatives’ continuous dominant presence in government (2000- 74.2%, 2002- 65.7%, 2005- 60%).

All Armenian elections since 1991 have fallen well short of truly democratic. Taking into consideration the historical development of Armenian elections, the inadequacies that have been described here tend to persist. As we have already mentioned the electoral framework and political regime are tightly interlinked. So it is important to identify their correlation in order understand why this flaws and shortcomings occur in Armenian elections.

### **Competitive Authoritarianism and Armenia**

After the breakup of the Soviet Union some new states emerged with various types of political regimes. Most newly-emerged post-Soviet regimes fall somewhere in-between authoritarian and democratic. As Diamond (2002) calls them they are “hybrid regimes” which are neither totally authoritarian nor democratic. Rather they have typical features of both. Diamond (2002) says that these regimes can be identified as pseudodemocratic. In pseudodemocratic regimes “the existence

of formally democratic political institutions, such as multiparty electoral competition, masks the reality of authoritarian domination”<sup>87</sup>.

Our country, Armenia, is a post-Soviet hybrid regime, too. Particularly, the political regime of Armenia is identified as competitive authoritarian having the form but not the substance of democracy. In competitive authoritarian regimes political authority is gained and exercised via formal democratic institutions but the violations of the rules of those institutions by incumbents are so frequent and excessive that the minimum democratic standards are hardly met.<sup>88</sup>

The first and foremost democratic institution is the existence of free and fair elections system in a country, accompanied by other factors such as: the existence of equal playing field between government and opposition; existence of independent legislative, executive, and judiciary bodies; existence of free and independent media; civil society; and a political culture supportive of democratic practice. Competitive authoritarianism arises when violations of democratic rules and procedures regularly occur in a context that is formally democratic and pluralistic, in the sense of having multiple political power centers, but where winners prevail and try to retain power through manipulation, intimidation and practices that fundamentally violate the spirit of real democracy.

### ***Opposition – Government Relations in Armenia***

In Armenia political parties mostly are composed of political and economic elites. Almost always the ruling political party (with majority members in the parliament) represented or supported the president. Thus, legislative and executive bodies of Armenia have been in a tight connection, undermining any checks and balances in the state. So, it may be assumed that the legislature, to some extent, has been always dominated by the president.

Almost all the Armenian political parties, both governmental and opposition, lack a concrete ideological base and a permanent real constituency support. Party members easily float from party to party based on political situation. Most parties depend on their leaders and are leader oriented. Therefore, the party political clout largely depends on the leader’s political career. So, it is not so much the party that receives the votes of constituency but rather the leaders of the party. People vote “without any clear idea of what in terms of policies they are voting for – a state of affairs is hardly conducive to a participatory democracy”<sup>89</sup>. They vote for charismatic leaders rather than for ideological platforms of parties. The creation of strong and real opposition is very important for the electoral process and outcome of elections. The creation and possible existence of such oppositional coalition influences the behavior of incumbents even before the start of elections as

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<sup>87</sup>Diamond, 2002, p. 24.

<sup>88</sup>Levitsky and Way, 2002.

<sup>89</sup>Wheatley and Zürcher, 2008, p. 7.

they start to think what will happen to them if the opposition comes to power and to think about costs and benefits of the election manipulations.

Thus, this is the overall picture of shortcomings, which highly impact the outcome of local government elections in Armenia. They emerge both from legal breaches and violations in practice. In Armenia civil society is very passive and apathetic towards elections and political life. However, if strong and united, civil society may have a huge impact on both electoral outcomes and political life of a country.

### *The System of Local Self-government in the Republic of Armenia*

The problems and needs of the population of Armenia are addressed by two tiers of government: national and local. LSG bodies are closer to the local population know local needs and problems better. The aim of local self-government is to resolve the issues of local population manage local property and provide services according to subsidiarity principle. Local self-government denotes the rights and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of local population (European Charter of Local Self-Government). Developed and democratic local self-governance is an important precondition for having effective state governance and overall democratic country. The first step of establishing local self-government in Armenia was the adoption of the “Law on local Self-Government” on June 30 1996 after which the first local elections took place in 1996, November 10.

The modern system of local self-government was established after the adoption of the Constitution of the Republic of Armenia (5 June, 1995). The legal basis of the system is the Constitution of the Republic of Armenia (chapter 7), the “Law on Local Self-Government”, which is based on European Charter of Local Self-Government, the “Law about Local Self-Governance in Yerevan”, and other legal acts. Armenia’s membership to the Council of Europe has also played a great role in development and improvement of LSG system. Armenia has ratified European Charter of Local Self-Government in 2002; in the same year the National Assembly has adopted a new “Law on Local Self-Government”, and in 2005 made Constitutional referendum and amendments which had a great impact on the system. The definition given in the Constitution about LSG is close to the definition of the European Charter.

“The local self-government is the right and power of the community to resolve on its own responsibility issues of local significance aimed at the welfare of the inhabitants in accordance with the Constitution of the RA and the RA Law “On Local Self-Government”<sup>90</sup> .

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<sup>90</sup> <http://www.mta.gov.am/en/the-lsg/>

Armenia self-government is exercised in communities. Nowadays local self-government is executed in 915 communities which are either in cities or villages. Local self-government is exercised through directly elected mayors and Council of Elders. Till the Constitutional amendment of 2005, marzpets could initiate the process of dismissing a mayor upon a Community Council request or they could himself initiate this process upon their own initiative by submitting a request to the Government (Article 109 of the Constitution before amendments of 2005). This provision contradicts to decentralization process. Regarding this article the Venice Commission noted: *“The Commission’s Rapporteurs had expressed concern that Article 109, allowing the dismissal of elected mayors and the dissolution of the elected communities’ councils, might lead to situations that could be incompatible with the very essence of democracy. The Commission now notes, with approval, that the new draft expressly provides that the dismissal may only take place for reasons stipulated by law and on the basis of a conclusion by the Constitutional Court. In this respect the Commission recalls that the legislator is bound, when adopting norms on the reasons for revocation of elected mayors and communities’ councils, to respect the essence and the principle of local self-governance.”*<sup>91</sup>

It is noteworthy to mention that the article has been modified by constitutional amendment in 2005, so now the Government may still remove the Head of Community in cases prescribed by the law but only on the basis of the conclusion of the Constitutional Court (Article 109, Constitution, 2005). Detailed provisions of procedure for dismissing mayor by the government are reflected in articles 72-74 of the Law on Local Self-Government.

According to the new Electoral Code the day of holding LSG elections has been made more distinct. According to the old Electoral Code marzpets appointed a day of LSG elections 90 days after the expiration of the term for the respective position, and LSG elections could be held each month in various Armenian communities. Because in the past in many instances extraordinary LSG elections took place therefore the term of the office of the LSG bodies may start any day in the year. According to the new Electoral Code marzpets still appoint the day of elections but not later than 70 days after the term of the office is expired (except for the Community Council of Yerevan) but now the elections can be held up to four times in a year. CEC appoints election dates for each year. If by the old Electoral Code it was required that nominated candidate must have at least two years’ registration in the community, now the people who have at least six months registration in citizens register of the community can nominate their candidacy<sup>92</sup>.

Yerevan is the biggest city of Armenia, where approximately 30 percent of population of the country lives. Local self-government in Yerevan is specific and regulated by a special Law on Local Self-Government in Yerevan. Yerevan used to have a status of marz divided into 12 districts which as other communities have directly elected mayors and councils. However, recently with the amendments to Constitution Yerevan has been given a status of city and nowadays population

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<sup>91</sup>Drampian, 2004.

<sup>92</sup> <http://www.mta.gov.am/en/the-lsg/>

of Yerevan elects the community council which in its turn elects a mayor from its members. The new Electoral Code (2011) has a new chapter 33 called “Calling and Conducting Yerevan’s Council Elections.” Both the mayor and community councils are elected every four (used to be three according to the old Law on LSG) years through direct and equal elections. The size of the councils depends on the population number and varies between 5 and 15. This mayor-council structure is presumed to ensure checks and balances. However, in practice, this does not work as the councilors have less professionalism, they are often supporters of the mayor and rubber-stamp all the decisions of the Mayor.<sup>93</sup>

The first elections in the RA were held on 10 November, 1996 according to the RA Law “On Elections of Local Self-Government Bodies”. The second elections took place on 24 October, 1999 in accordance with the RA Electoral Code, which was adopted in 17 February, 1999. The next elections took place correspondingly on 20 October, 2002 and in autumn of 2005.

2005 was the last time the LSG elections were held for three year term. The latest LSG elections in most communities were held in 2008 except the communities where according to the legislation of the Republic of Armenia additional extraordinary LSG elections took place earlier. In 2008 715 elections of heads of communities and 773 elections of community councils took place. 48.7 percent of voters participated in election; in Yerevan voter turnover was 33.2%. It is worth to mention that 496 elected heads of communities were re-elected. In 2008 local elections the maximum number of candidates for the Mayor was 4.

The data about party affiliation of candidates for both heads of communities and community councils were non-complete. The data put on the official site of CEC did not cover the whole republic. For example, it was mentioned that 5,544 candidates from 8,656 were non-partisan. The most part of candidates were from the coalition which consists of four political parties: 1,774 candidates were from the Republican Party, 685 candidates from the Prosperous Armenia Party, 313 candidates from the Dashnaktsutyun Party (Armenian Revolutionary Federation, ARF), and 152 candidates from Orinats Yerkir Party. The elected candidates also were mostly from these four parties. The 2008 LSG elections were held with the same scenario as previous LSG elections. Offices of LSG bodies were mostly distributed among candidates from the Coalition. The competition was either too low or was absent totally, and in most cases the change in powers did not take place.<sup>94</sup>

By the new Electoral Code (2011) great attention has been paid to the part of organization of activities of CEC in order to provide better transparency in its work. All the information (about voter lists, pre-election programs of the candidates, normative decisions of CEC) should be put on the web-site of the CEC within determined deadlines.

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<sup>93</sup>Drampian, 2004.

<sup>94</sup> Tumanyan, 2009.

During elections of mayors the competition is usually moderate. In 2007 municipal elections in 41 (about 40 percent) out of 106 elections there was only one candidate nominated. The maximum number of candidates was 5 only in three communities. So, the overall interest to local elections and voters' trust to local government is low.

### ***Improvements in the Electoral Code***

Before amendment of 2002 the Electoral Code has some problems concerning refugees' right to vote on local elections. It contained no provision allowing refugees to vote while in some communities in Armenia refugees made up about 90 to 100 percent of the population. In other words, these kinds of communities could not have local self-governance bodies. However, the amended Electoral Code clearly states that refugees may vote only in elections to local self-governance bodies.

### ***Local Government Elections***

Free and fair elections and formation of LSG bodies by direct participation of people is an important prerequisite for having local democracy. In local elections candidates used to be nominated by the principle of self-promotion and political parties could not nominate their representatives as a candidate for head of community or member of community council. This provision has changed by the new Electoral Code and now political parties can nominate their candidate on the elections. If only one candidate is nominated a new election will be hold. This was the claim of the Venice Commission in order to provide community people to have alternative choice.<sup>95</sup>

Party affiliation of candidates is mentioned only in the ballot. So, in local elections is common phenomenon for candidates not to have pre-election programs as it is a case in presidential elections. In 1999-2000 local elections 74.4 percent of elected candidates were non-partisan.

According to the Constitutional amendments adopted in 2005 the process of formation of LSG bodies has changed in some aspects. The Congress of Regional and Local Authorities of the Council of Europe criticized the fact that the Constitution was not flexible enough to make reforms in some spheres especially with regard to three-year terms of elected local officials, the status of Yerevan, and the right of the Armenian government to dismiss from the office heads of communities. Before the amended constitution heads of communities and members of community councils were elected for three-year terms. Community councils were elected with 5 to 15 members (Article 105, Constitution of RA).

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<sup>95</sup> <http://www.parliament.am/drafts.php?sel=showdraft&DraftID=23456>.

The marzpets could trigger dismissal of the heads of communities by the government. According to the amendments in the Constitution (Article 107) a community exercises its self-government rights through a head of community and community council which by the form prescribed by the law are elected already not for three but for four-year term. The limitation regarding number of the community council members' was removed. Beside the opportunity to remove a head of community is only possible in the cases prescribed by the law bases on the conclusion of the Constitutional Court. It is also worth to mention that despite the number limitation on a number of community council members were removed from the Constitution, according to the Electoral Code of the Republic of Armenia it still remains in its place. Such contradictions also must be taken into serious consideration and must be removed. Nowadays, the number of the community council members is decided according to the community population number: the community that has till 1000 inhabitants has a community council with five members, community with population from 1001 to 3000 – 7 members; from 3001 to 20000 – 11, and in communities with more than 20001 – 15 members. The decision upon the number of council members can be given to LSG bodies who better know local capabilities.

According to the new Electoral Code the number of candidates nominated for the Community Council cannot be less or equal to the number of Council members prescribed by the Code. In villages this will hinder holding of elections as we have already mentioned in the essay in many villages it demands a great effort from heads of villages to ensure appropriate number of candidates for Council, to pay pre-election fees, etc. So nowadays if there is only one candidate registered the head of community should have to find and make another candidate to register in order to have elections to be considered passed. Besides, the existence of names of more than one candidate is required to be before the registration of candidates<sup>96</sup>.

There is a contradiction between first and second parts of the Article 143 as the first part defines that an election of a head of community is considered failed if the only nominated candidate does not receive required (necessary) amount of votes; in contrast, the second point highlights that within the given the period and form for the registration of candidates by the Code there is no registered candidate or the number of registered candidates is less than two, then an elections of a head of community is also considered failed (Article 143, Electoral Code, 2011). Thus, by the first point by the existence of one candidate it is possible to hold elections, and by the second point it is not possible. Besides, the second point can bring to additional problems especially in small communities and villages in case of elections of heads of communities it will be less possible to have two candidates taking into consideration also the raise of election fees (Article 143, Electoral Code, 2011).

Political parties of course have their roles in the formation of the LSG bodies and if not directly, indirectly they always have impact on the electoral processes. However, the problem is that they

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<sup>96</sup> <http://www.hrparak.am/2011/06/27/tim/>.

do not carry any political obligation/responsibility for the efficient or non-efficient activity of the elected candidate. Over the years there is tendency that more members of political parties become elected in LSG bodies. For example, if in 1999-2000 the outcome of LSG elections showed that 74.2 percent and in 2002 65.7 percent of elected heads of communities and members of community councils were non-partisan, then, in 2005 election 60 percent of heads of communities were members of the ruling party, more precisely, 552 from 926 were from the Republican Party.

In 2005 LSG elections there were not enough candidates registered for council members, especially in rural communities. As a consequence heads of communities had to persuade some people to nominate their candidates and also to pay their state fees. On the contrary in districts of Yerevan in some cases the number of candidates for community councils exceeded the numbers allowed by the law up to five times. Voters joked that the ballot looked like a decree, while by the law the electoral document cannot consist of more than one page. As long as political parties do not have a right to nominate candidates in local elections and their role in the election of LSG bodies is limited the factor of group (collective) responsibility cannot work.<sup>97</sup>

Though a new Electoral Code has been adopted trying to improve the legal framework of holding elections, however, the Heritage Party and Armenian National Congress Party consider the new Electoral Code is not a better version than the old acting Electoral Code but it just will serve leading political powers to have elections more uncontrollable by the society and oppositional political powers; so, the new Electoral Code carries more opportunity for fraudulent elections.<sup>98</sup>

### **Interviews with community representatives of Armenian leading political parties**

As we have already mentioned political parties used to play a limited role in local elections as, according already with the old Electoral Code, they did not have a right to nominate candidates. However, over time their interest in local elections has grown as having their representative in LSG bodies can serve their political parties interest and be a good precondition for winning in parliamentary or presidential election later. The new point in the new Electoral Code giving a right to political parties to nominate their candidate in LSG elections will raise their interest in LSG elections and will make those elections more competitive. As it was mentioned in methodology part representatives of several leading political parties, two pro-governmental (Republican Party and Prosperous Armenia) and two oppositional (Armenian Revolutionary Federation and Armenian National Congress), were approached for interview. The outcomes of interviews were not surprising. Each representative answered the questions according to his/her political party perspective and not as an individual.

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<sup>97</sup> Tumanyan, 2009.

<sup>98</sup> <http://www.hraparak.am/2011/02/08/nor-entrakan-orengirq/>.

Representative of the Republican Party in community X said that all latest elections in Armenia, presidential of 2008, parliamentary of 2007, and local of 2008, were free, fair, and competitive. The representative of another coalition party, the Prosperous Armenia, in community X refused to answer any question because he did not receive any instructions from “above”, meaning from the head of the party to respond to questions. Therefore, below we will discuss answers provided only by three political parties. While the representative of the Armenian Revolutionary Federation, which nowadays cannot be regarded either fully oppositional or pro-governmental, answered all the questions, he was still trying to avoid direct answers. The representative said that, of course, none of those three elections – presidential, parliamentary, and LSG - could be regarded absolutely free and fair; in each of them some election fraud and manipulations occurred, however he considered the phenomenon as Armenia is a ‘young’ democratic country, gained its independence only in 1991, and still is on its path to development and democratization. He also added that some improvements and changes will remove the shortcomings in elections. The representative of the opposition party, Armenian National Congress (ANC) answered “oppositionally.” He said that all elections were full of election fraud and manipulations, such as obvious vote buying. He called elections a “well-organized show.”

To the questions which are the main shortcomings and manipulations in the LSG elections the representatives mentioned the followings: vote buying, double-voting of the same person in different polling stations, names of the deceased people in the voting lists, and the failure to publish the voter lists after the elections. The representative of the Republican Party again excluded the possibility of existence of any electoral manipulation and shortcoming.

The representatives said that in Armenia all elections are interconnected and political parties have their separate interests in winning in LSG elections as thus they can change the balance of powers first at the local level that lately will help them to change the balance of powers and change of powers in the whole republic. Sometimes they want to win in LSG elections to realize their power in order to become richer or to provide jobs to their relatives, etc. This all speaks about mixed motives that impel political parties to promote their candidates into LSG bodies.

The last question was “In your opinion what kind of changes and amendments should be made in the legislation regulating LSG elections?” All respondents gave the following answers: more effective community council with better educated and professional people and all of them agreed that improvements are needed in the Electoral Code without mentioning any particular point.

Thus, from the above given answers, we see that all answers were biased. No one of the representatives clearly knew the essence of LSG elections and the interest and strategy of their parties’ in those elections. Opinions expressed by political party representatives were highly politicized and did not reflect the objective situation.

## **The Interview with the President of “It’s Your Choice” NGO**

The “It’s Your Choice” NGO is one of the leading Armenian NGOs and has various monitoring reports about both presidential/parliamentary and LSG elections in Armenia.

The president of the NGO said that though the last parliamentary elections were freer but neither presidential nor parliamentary elections could be considered free and fair. He stressed the same also about LSG elections. The respondent mentioned: “The Electoral Code of the Republic of Armenia is one of the best codes among the CIS countries. However, nobody takes it into consideration. The problem is not the Electoral Code but the absence of good will of leading powers.” As main kinds of manipulation in those elections he mentioned ballot stuffing, corruption/vote buying, massive ballot casting, signing voter lists for other persons, choice enforcement, etc. He considered LSG elections as a tool for individuals and political parties to enter the National Assembly. In LSG elections leading political powers use city and other halls for their meetings and advertising, use their connections to win, while the opposition more speaks than acts. He mentioned that nowadays Armenia does not have a healthy opposition which will give people a new leader with new incentive. As a drawback he mentioned the removal of the point “against all” from the ballot.

He considered that there was more possibility for electoral manipulations in LSG elections as in big cities local criminal authorities are more interested to be elected in LSG bodies for business plans. The proof for it is the fact that in many rural areas there is no interest whatsoever to be elected to community council. Among the points for improvements he mentioned: a head of community and members of community council should have an educational qualification; the council should be professional and paid for its service in order to be more interested in their work; he suggested to introduce back the limitation concerning number of times for re-election of a head of community. Finally, the respondent gave priority to Yerevan type of LSG elections.

## **Conclusion**

Although there are still minor shortcomings in the Electoral Code of the Republic of Armenia, the major deficiency of the elections in Armenia remains the commitment and the political will of the ruling authorities to properly implement the legal provisions. What is really lacking in Armenia’s quest for better elections is a true democratic culture, including trust and respect for rule of law and widespread appreciation for the potential made possible by developing and adopting that culture.

Before claiming and demanding free and fair elections every citizen of our country should try to find out by how much he/she is ready to contribute to honest elections in Armenia; or what is the margin of his/her devotion to the idea of free and fair elections; or what he/she lacks that hinders him/her from increasing that margin. Bearing in mind an ancient Armenian saying which holds

that “no spring will come with one blossom” every citizen of our country should realize deeply and with earnestness his/her role in building a democratic society through democratic elections, and how closely these two entities are interrelated. Armenian society should understand that democratic elections will not come to us overnight.

Nevertheless, the society should be very attentive and persuasive not only in development of free and fair elections but also in simultaneous strengthening of all other democratic institutions that will bring to the establishment of truly democratic culture and healthy political environment. The society and political powers should look beyond the “mask” of the country (prosperous lives of the Yerevan elite), see the real face of the country, and try to challenge the situation by any possible means, involving all kind of actors that can bring benefit to the vital process of political development in a democratic direction. International organizations, Armenian NGOs, and entire society should be involved in the process.

The toughest problem remains the proper implementation of the Electoral Code and the development of strong democratic political culture. However, it is not the OSCE/ODIHR or other international observers who should rate our elections but rather the society itself. To conclude, the study showed that almost all electoral violations taken place in the local government elections have their precedence in the parliamentary and presidential elections. For example, ‘carousel’ magic technology of pre-marked ballot stuffing has been first introduced in presidential elections and then replicated in local elections. Lack of political will to ensure free and fair elections, stemming from the interests of the political elite to preserve its power always serves as a huge impediment to bring a positive change in the quality of elections’ implementation. This electoral characteristic and violation motivation was deep-rooted in “the head of the fish”, that is, parliamentary and presidential elections.

Thus, the interest of the ruling elite to preserve its power tooth and nail induces to continuously deploy vicious technologies of fraud and corrupt practices in the elections, which replicate from parliamentary and presidential elections to local ones. We witness the same shortcomings and fraudulent practices during elections, be that presidential/parliamentary or local. The ruling powers and elite want to have guarantee of preserving their leading role and the “right” of decisive and final say in all levels of the government.

However, the establishment and strengthening of democratic institutions will allow to have free and fair electoral procedure in place. It is a matter of time and continuous efforts to transform Armenia into prosperous, developed and democratic country.

## **Recommendations**

Political parties (either pro-governmental or oppositional) and mass media should pay more attention to LSG elections in order to make people realize that LSG elections have as much

importance as presidential/parliamentary elections thus motivating them actively take part in the elections.

Society should be made aware about costs and risks of cheated and/or bought vote outcomes by all possible information means such as delicately structured media programs.

All existent democratic institutions of Armenia should be strengthened and new ones formed with support of all the international organizations operating in Armenia, which are aimed to reduce poverty, promote human rights protection, and other.

A restriction should be put on the number of times that a head of community can be re-elected in order to provide people with an opportunity of alternative choice.

The Community Council can be given more power and allowed to elect a chair who will preside at the meetings while the head of community and his/her staff will be only attending and responding to inquiries. This will create more effective system of checks and balances and will make elections of the Community Council more competitive.

The limitation on the number of the members of community council should be removed which will give an opportunity to form councils with appropriate number of members in accordance with the capabilities and need of local government.

The amount of electoral fees for registration as a candidate in LSG elections should be reduced in order to make nomination for candidates more affordable and attractive especially in rural areas.

As Yerevan has a status of community now, it should be given an opportunity of self-nomination to candidates for the mayor of the capital like other communities of Armenia, elections of the mayor should be direct.

By amending the EC clearly separate political activities from pre-election campaign.

Both by the EC and in practice mandatory attendance of campaign events by public servants, students and schoolchildren should be prohibited.

Strictly prohibit the long-lasting presence of unknown (unauthorized) persons and illegal campaigning in polling stations.

For the purpose of excluding cases of double/multiple voting, it will be better to determine a requirement in the EC concerning finger inking.

Clearly and adequately determine and strictly implement all provisions of the EC during both pre-election and post-election phases, such as assigning places for promotional materials in pre-election phase and vote counting.

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# *The Harsh Reality of Ukraine's Fiscal Arithmetic*

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## **Highlights**

**Ukraine is struggling with both external aggression and the dramatically poor shape of its economy. The pace of political and institutional change has so far been too slow to prevent the deepening of the fiscal and balance-of-payments crises, while business confidence continues to be undermined.**

**Unfortunately, the 2015 International Monetary Fund Extended Fund Facility programme repeats many weaknesses of the 2014 IMF Stand-by Arrangement: slow pace of fiscal adjustment especially in the two key areas of energy prices and pension entitlements, lack of a comprehensive structural and institutional reform vision, and insufficient external financing to close the expected balance-of-payments gap and allow Ukraine to return to debt sustainability in the long term.**

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<sup>99</sup>Bruegel is a European think tank specializing in economics. Established in 2005, it is independent and non-doctrinal. Its mission is to improve the quality of economic policy with open and fact-based research, analysis and debate. Its membership includes EU Member State governments, international corporations and institutions. See under: <http://www.bruegel.org/about/>

**The reform process in Ukraine must be accelerated and better managed. A front-loaded fiscal adjustment is necessary to stabilise public finances and the balance-of-payments, and to bring inflation down. The international community, especially the European Union, should offer sufficient financial aid backed by strong conditionality, technical assistance and support to Ukraine's independence and territorial integrity.**

**Ukraine is Struggling** not only with external aggression but also with the dramatically poor condition of its economy and finances. To a certain degree, the economic challenges are the consequence of war. The annexation of Crimea and the conflict in Donbass have resulted in heavy direct and indirect fiscal, economic and social costs in the form of higher military spending, war damages, human suffering, large numbers of displaced people, loss of control over part of a major industrial and exporting region (Donbass), a sharp decline in business confidence and a decline in trust in the national currency and banking system. Trade and other economic sanctions imposed by Russia (even before the open military conflict started in March 2014) have caused additional damage. However, the conflict is not the only reason for Ukraine's poor economic condition.

Ukraine continues to suffer from years of poor economic management and slow reform<sup>100</sup>. The fall of former president Viktor Yanukovich's regime in February 2014 could have enabled a return to freedom and democracy and a pro-Western reorientation of Ukraine's foreign and domestic policies. However, the pace of change has been too slow to prevent the deepening of the macroeconomic crisis or to boost business confidence.

To avoid further deterioration of its economic situation and greater political destabilization, Ukraine's reform process must be accelerated and better managed. It should include a front-loaded fiscal adjustment package that is strong enough to stabilize public finances and the balance-of-payments while reducing inflation. The international community, especially the European Union, should encourage the Ukrainian authorities to move in this direction by providing a sufficient aid package with associated conditions, technical assistance and effective support to the country's independence and territorial integrity.

### **The Sad Lessons of 2014**

In spring 2014, the new Ukrainian government of Prime Minister Arseniy Yatseniuk faced a dramatic deterioration in the macroeconomic situation marked by a twin fiscal and balance-of-payments crisis. From the very beginning, the policy response looked insufficient. This was the case for both the government's actions and the International Monetary Fund Stand-By

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<sup>100</sup>See Aslund, 2015, chapter 4; Dabrowski, 2007 and 2014.

Arrangement (SBA) approved on 30 April 2014<sup>101</sup>. Further economic developments in 2014 and early 2015 proved the sceptics correct. The main issues, as highlighted by Dabrowski (2014), were:

1. Apart from numerous structural and institutional weaknesses, deep macroeconomic (fiscal and balance-of-payments) imbalances posed the main threat to the Ukrainian economy in spring 2014; they required an immediate and bold response.
2. Given the size of macroeconomic imbalances and the high probability of further adverse shocks (which indeed happened), there was no time for gradual adjustment. The insufficient adjustment package brought with it the risk of widening imbalances and a crisis of confidence – unfortunately, this scenario materialized.
3. The two areas that required immediate and major adjustments were natural gas subsidies and oversized public pension entitlements.

On this last point, the 2014 SBA offered only limited adjustment of natural gas tariffs for households, which increased by 56 percent, while heating tariffs increased by 40 percent, both from an extremely low level (less than 20 percent of full cost recovery). Further gradual tariffs increases were planned with the goal of reaching the full cost-recovery level by 2017.

Changes to the pension system, on which Ukraine spent 17.1 percent of GDP in 2013, were limited. They included cancellation of some earlier decisions that would have led to generous pension increases. They did not change one of the lowest retirement ages (mandatory and actual) in Europe. As result, the 2014 SBA envisaged very modest and gradual improvements in the general government fiscal balance over 2014-18: by 2 percentage points of GDP annually, on average. In addition, the deficit of Naftogaz, the state-owned oil and gas company, was to be reduced at the annual rate of 1 percentage point of GDP, being eliminated only in 2018.

Although the current account deficit was expected to decrease from over 9 percent of GDP in 2013 to 4.4 percent of GDP in 2014, it was to remain on the level of about 4 percent of GDP until 2018. Furthermore, the programme was built on an overly optimistic assumption that GDP would decline in 2014 by 5 percent only, and growth of 2 percent would return in 2015. Another optimistic assumption was made about net inflow of foreign direct investment (FDI) of 2 percent of GDP and above until 2018. On the structural and institutional fronts, neither the IMF SBA nor government plans were particularly ambitious. They spoke about preparing detailed action plans during 2014, rather than offering concrete reform measures.

## **From Weak Programme to Balance-of-Payments Crisis**

**The dramatic developments in the second half of 2014 painfully exposed the overly optimistic macroeconomic projections of the SBA. Ukraine's GDP declined by 6.9 percent in 2014**

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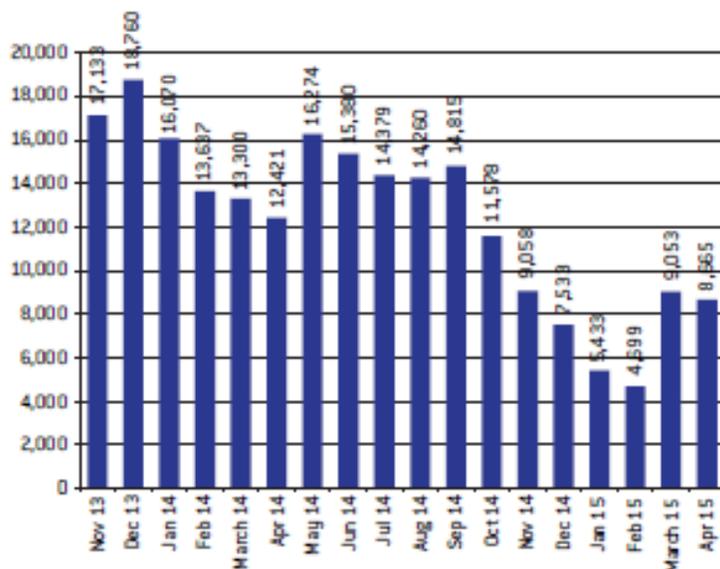
<sup>101</sup> <http://www.imf.org/external/np/sec/pr/2014/pr14189.htm>. Also see IMF (2014), Dabrowski (2014), Mitov and Schneider (2014) and Schadler (2014).

**instead of the forecast drop of 5.2 percent, as the conflict in Donbass escalated**<sup>102</sup>. The slow pace of reform meant no real improvement in the business climate or business confidence in regions not affected directly by war<sup>103</sup>. On the other hand, the general government cash deficit in 2014 was smaller than projected: 4.6 percent of GDP instead of 5.2 percent of GDP, marking a small improvement in comparison with 2013 when it amounted to 4.8 percent of GDP. Here, paradoxically, the conflict in Donbass provided some sort of relief: the earlier scheduled fiscal transfers to the region were suspended. However, if the government of Ukraine manages to regain control over the conflict areas, it will have to pay arrears to pensioners.

The 2014 fiscal picture looked much worse when one added in the quasi-fiscal deficit of Naftogaz. The consolidated deficit exploded from 6.7 percent of GDP in 2013 to 10.3 percent in 2014 (instead of the forecast 8.5 percent). This clearly confirmed insufficient adjustment of administrative gas tariffs for households and heating utilities in 2014, which increasingly lagged behind the actual import prices (which Naftogaz had to pay to Gazprom and other gas suppliers).

The unfavourable fiscal developments, only partial improvement in the current account (from -9.2 per-cent of GDP in 2013 to -4.8 percent of GDP in 2014) and intensive capital outflows meant that the external financing envisaged in the 2014 SBA was insufficient to avoid a balance-of-payment crisis. The National Bank of Ukraine's (NBU) foreign exchange reserves started to decrease rapidly in Q4 2014, reaching the critically low level of \$4.7 billion in February 2015 (Figure 1).

Figure 1: National Bank of Ukraine foreign exchange reserves, 2013-15, \$ millions



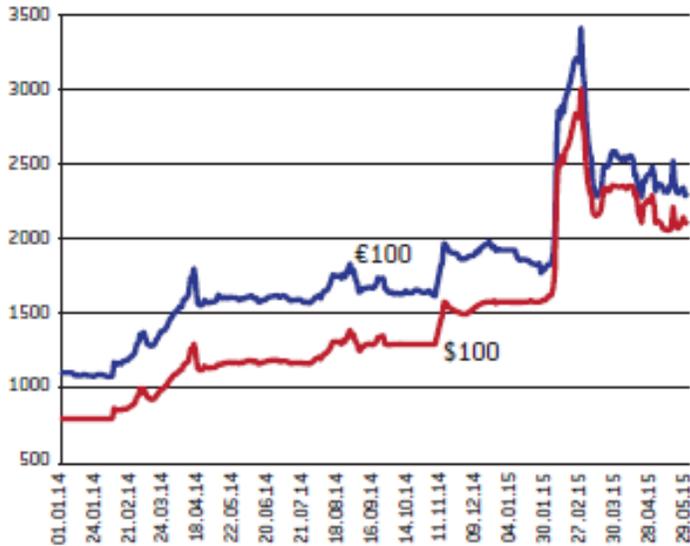
Source: National Bank of Ukraine

<sup>102</sup> See Havlik, 2014, for its consequences.

<sup>103</sup> Macroeconomic data on 2014 and projections for 2015 are drawn from IMF (2015) unless otherwise indicated.

As a result, the hryvnia rapidly depreciated, despite various capital and current account control measures adopted by the NBU (Figure 2).

Figure 2: Official hryvnia exchange rate 2014-15, UAH/\$ and UAH/€



Source: National Bank of Ukraine.

While market panics were partly triggered by the new escalation of the Donbass conflict in January and February 2015 (before the signing of the second Minsk ceasefire agreement on 12 February 2015) and by contagion effects from the currency crisis in Russia and other Commonwealth of Independent States countries<sup>104</sup>, it was Ukraine's weak macroeconomic fundamentals that played the decisive role.

### Dramatic Consequences of the Collapse of the Hryvnia

Unlike the 40 percent hryvnia depreciation against the dollar in Q1 2014, which was necessary to correct its earlier over-appreciation and restore Ukraine's external competitiveness, the currency's further dramatic collapse at the end of 2014 and in early 2015 did more harm than good. Even if the hryvnia (UAH) recovered from its lowest point (30 UAH for \$1 on 26 February 2015) to about 21 UAH for \$1 in the third week of May 2015), it lost almost two thirds of its value compared to the beginning of 2014. As a result, average annual inflation increased from -0.3 percent in 2013 to

<sup>104</sup> Dabrowski, 2015.

12.1 percent in 2014 and is expected to increase further to 33.5 percent in 2015. According to the IMF's May 2015 projection<sup>105</sup>, 12-month inflation will reach 46 percent in December 2015.

The new wave of devaluation increased the burden of public debt: according to the IMF projection (2015, Table 1, p.47), it was expected to reach 94.5 percent of GDP in 2015, including the publicly guaranteed debt. Devaluation also increased private external debt: the total external debt (both public and private) is projected to increase from 102.4 percent of GDP in 2014 to 158.4 percent of GDP in 2015. This also increases the vulnerability of Ukrainian banks and those non-financial corporations that have borrowed abroad, and will increase the cumulative costs of bank restructuring, which were already high in 2014.

### **Is History Repeating itself? The New Rescue Programme and its Weaknesses**

To arrest market panics and avoid even deeper macroeconomic crisis, the international community has rushed a new rescue package for Ukraine. As before, the IMF programme will play a central role. The four-year Extended Fund Facility (EFF) programme of \$17.5 billion approved on 11 March 2015 replaces the 2014 SBA<sup>106</sup>. The overall amount of the EFF remains roughly the same as the 2014 SBA, but offers Ukraine longer maturity. The amounts pledged by other multilateral and unilateral donors to supplement the EFF are a bit higher than a year ago.

The approval of the EFF, immediate disbursement of its first tranche of \$5 billion (including \$2.7 billion of budget support) and decisions of other donors to join the aid package have allowed a partial replenishing of the NBU's foreign exchange reserves, calming the currency market and strengthening the hryvnia (see Figure 2). Up to the end of 2015, the entire IMF disbursement should amount to \$10 billion, assuming positive results from the debt-restructuring negotiation and subsequent reviews of programme implementation.

However, the question of whether the new programme is sufficient to arrest entirely the crisis and address its roots in a sustainable way remains open. As with the SBA, two major doubts are: (i) weak conditionality, which allows for the continuation of the strategy of gradual fiscal adjustment and slow structural and institutional reforms; (ii) the insufficient size of financial aid to close fiscal and balance-of-payments gaps, especially in a medium-to-long-term perspective. Needless to say, these two issues are closely related: deeper upfront fiscal adjustment would enable faster reduction of public-sector borrowing requirements and make it easier to close the balance-of-payments gap.

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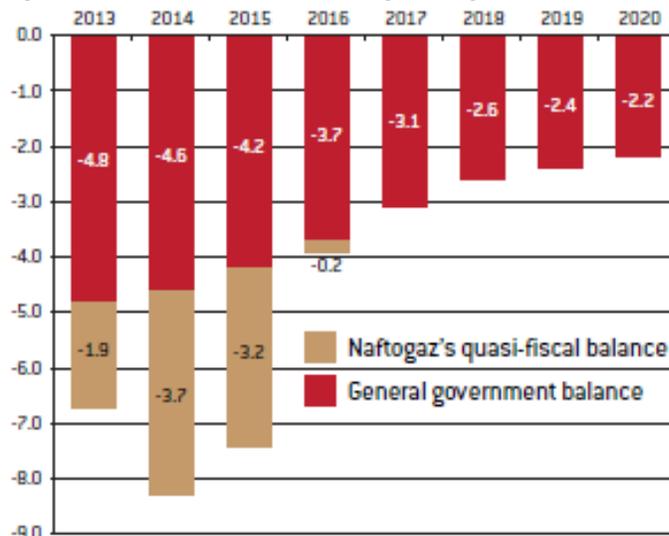
<sup>105</sup> <http://www.imf.org/external/np/sec/pr/2015/pr15243.htm>.

<sup>106</sup> <http://www.imf.org/external/np/sec/pr/2015/pr15107.htm>.

## Fiscal Gradualism and Gas Tariffs

According to the EFF programme (IMF 2015 Table 1, p. 47), in 2015 the general government deficit will amount to 4.2 percent of GDP, a modest decrease from its 2014 level (4.6 percent of GDP). Gradual deficit reduction will continue in the subsequent years (Figure 3) – to 3.7 percent of GDP in 2016, 3.1 percent in 2017, 2.6 percent in 2018, 2.4 percent in 2019 and 2.2 percent of GDP in 2020. Apart from the ‘official’ general government deficit, one should add the quasi-fiscal deficit of Naftogaz: 3.2 percent of GDP in 2015 (which gives 7.2 percent of GDP total) and 0.2 percent of GDP in 2016. After 2016, Naftogaz’s operational deficit should disappear.

Figure 3: Ukraine: fiscal balance of general government and Naftogaz, % of GDP, 2013-20



Source: IMF (2015), Table 1, p. 47.

Naftogaz’s losses will continue in 2015-16 because of the delay in the adjustment of household gas and heating tariffs to the cost-recovery level (this will happen only in 2017). Nevertheless, because of the effects of abrupt hryvnia devaluation in 2014-15 (Figure 2), the tariffs increase on 1 April 2015 had to be steeper than the 2014 increase, by 284 percent and 67 percent, on average, respectively. As before, gas tariffs remain differentiated depending on the volume of gas consumed: 3,600 UAH for 1 cubic metre in the winter period (October-April) if monthly consumption is below 200 cubic metres, and 7,188 UAH/cubic metre for monthly consumption above 200 cubic metres and in the summer period (May-September)<sup>107</sup>.

Continuation of the two-tier retail gas tariffs and keeping them below the cost-recovery level have been clearly motivated by social considerations. However, it brings numerous negative

<sup>107</sup> <http://www.nerc.gov.ua/index.php?id=14329>

consequences. First, it involves substantial fiscal costs: eventually the government must cover Naftogaz's quasi-fiscal deficit. Second, it slows down structural and institutional changes in the gas industry, such as unbundling of Naftogaz, providing third-party access to the gas transmission system, improving corporate governance and fighting corruption, all of which are rightly considered as important structural benchmarks of the EFF<sup>108</sup>.

Even if the new legislation on the gas sector is quickly adopted, its implementation will lag as long as Naftogaz continues its role as a government social agency rather than a profit-oriented commercial entity. Third, the below-full-cost-recovery tariffs will continue to discourage domestic gas production, energy saving measures and development of renewable energy sources. Fourth, they will hinder the reduction of Ukraine's energy dependency on Russia. Ironically, Ukrainian taxpayers and international donors will continue to subsidise overconsumption of Russian gas. The process of bringing retail gas tariffs to the cost-recovery level could be much faster than envisaged by the EFF.

### **The Pensions Problem**

Ukraine's spending on public pensions is one of the highest in the world (17.1 percent of GDP in 2013). This can be explained by very unfavourable demographic trends, low statutory retirement ages (60 for men and 57 for women<sup>109</sup>), even lower actual retirement age (because of numerous early retirement privileges) and a high replacement rate for some privileged pensions.

Unfortunately, the EFF-backed programme does little to address the major shortcomings of the public pension system. New legislation adopted in early 2015 started the process of gradual increasing the retirement age for people who worked in hazardous or difficult work environments and some other categories, in case of massive lay-offs or for health reasons. It also increased the minimum number of required work years for retirement of some groups that receive special pensions (for example, teachers and doctors). Although they move in the right direction, these changes in the effective retirement age will not bring about a quick visible fiscal effect, because of their slow pace and fragmented character.

Other adjustment measures set limits on pension benefits for pensioners who continue in employment (especially for civil servants). The biggest short-term fiscal gain (more than 2 percent of GDP) will come from delaying pension indexation until December 2015 and permanently decreasing the replacement rate (to 60 percent) for some privileged groups of pensioners such as retired civil servants, prosecutors, teachers and academic workers. While reducing pension

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<sup>108</sup> See Zachmann, 2015, on the gas sector reform agenda.

<sup>109</sup> According to the pension reform adopted in 2011, the retirement age for women increases by six months each year to reach 60 in 2021 (from 55 before the reform). The retirement age for men – civil servants will gradually increase to 62 in 2021.

privileges for certain professional groups goes in the right direction, the indexation delay means indiscriminate real depreciation of all pension benefits against the expected high inflation. Furthermore, it will provide only a temporary respite to the budget, because indexation is only delayed.

Definitively increasing the retirement age and more radical elimination of various group privileges would be a much better solution from both fiscal and social points of view than freezing nominal pensions across the board. A higher retirement age would limit the number of young pensioners, most of whom continue to work in the formal or informal sectors while receiving pensions. Freezing nominal pensions hits, in the first instance, the most vulnerable groups of pensioners – those with low benefits, in advanced age and poor health that do not have other income sources.

### **Alternative Adjustment Steps**

Being reluctant to make a far-going systemic adjustments to energy subsidies and the pension system, Ukrainian authorities had to look for other ways to increase revenues and cut expenditure as part of the new programme. The adjustment package includes combination of both types of measure. Some, such as elimination of subsidies to the coal industry, reduction of employment in the budgetary sphere and public administration or broadening the property tax base are steps in the right direction. Other proposals look more controversial. In particular, there are plans to reintroduce a progressive scale of personal income tax (as compared to the flat rate in recent years) and a temporary import duty surcharge. The latter would be an additional import barrier (on top of almost three-fold devaluation of hryvnia) for an economy that is strongly dependent on imports, both in the consumption and production sectors. Together with postponing the implementation of the deep and comprehensive free trade agreement (DCFTA)<sup>110</sup> with the EU until 2016, this will slow down the restructuring of the Ukrainian economy and the reorientation of its foreign trade. It also violates at least the spirit of the DCFTA and Autonomous Trade Preferences granted to Ukraine by the EU for the transitory period up to the end of 2015.

### **The Financing Gap, Debt Restructuring and Long-term Debt Sustainability**

Ukraine's relatively slow pace of fiscal and macroeconomic adjustment creates large borrowing requirements. The IMF (2015, p.12) estimates a financing gap of \$40 billion in 2015-18, with more than half (\$21.4 billion) falling due in 2015. This might again be (like the 2014 SBA) an overly optimistic estimate.

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<sup>110</sup> [http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc\\_150981.pdf](http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_150981.pdf).

The first source of risk relates to the expected GDP dynamics. In January-April 2015, Ukrainian GDP declined by 17.6 percent compared to January-April 2014<sup>111</sup>: The steepest decline was recorded in construction (-34.2 per-cent) and industry (-21.5 percent). As result, in the course of the EFF First Review completed in May 2015, the IMF increased the expected GDP contraction in 2015 from -5.5 percent (as assumed in the original version of the EFF) to -9 percent. The 2 percent GDP growth projected for 2016 remains under question. There are other risks, especially of a geopolitical and security character: continuation of the war in Donbass and its possible spread to other territories.

However, even the currently estimated financial gap of \$40 billion might not be fully financeable. The IMF, World Bank, European Union and other multilateral and bilateral donors have pledged only \$24.7 billion. The remaining \$15.3 billion should come from the so-called debt operation, i.e. the restructuring of public external debt in the form of Eurobonds held by foreign creditors.

At the time of writing, negotiations with bondholders are ongoing and substantial differences remain between both sides (see Gilmore and Wilson, 2015; Moore and Buckley, 2015). To stay in line with the EFF debt and external financing parameters the government of Ukraine requested an agreement that would include three components: (i) maturity extension, (ii) coupon reduction, and (iii) principal reduction. The bondholders are against haircuts and are ready to offer only debt payment rescheduling. Russia which holds \$3 billion out of the total \$23 billion of Ukraine's Eurobond exposure does not participate in the negotiation process.

Even if the debt agreement is signed soon, it will close Ukraine's access to private markets for years. It might also discourage FDI and other forms of private capital inflows that are so badly needed to restructure and modernise the Ukrainian economy. Furthermore, when one looks at the EFF medium-term fiscal projection, the question arises of how Ukraine will be able to finance the continued fiscal deficit of more than 2 percent of GDP and refinance its public debt exceeding 80 percent of GDP after expiration of the EFF at the end of 2018. It is worth remembering that Ukraine faced problems before (1998-99, 2008-09, 2014) with private market access when it had much lower public debt-to-GDP ratios. In this context, the approved EFF does not necessarily meet the second and third criteria of exceptional access (medium-term debt sustainability and regaining access to private capital markets by the end of programme life), which would justify the possibility of extending the IMF financing of this size (900 percent of the member country's quota in the Fund) with heavy frontloading.

## **Other Weaknesses**

The EFF programme only partly addresses the structural and institutional reforms that are so important for the modernisation and consolidation of the Ukrainian state and the return of the

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<sup>111</sup> Ustenko et al, 2015.

Ukrainian economy to a sustainable growth path. This reflects generally slow and sometimes contradictory changes in this area.

Since the collapse of the Yanukovich regime in early 2014, the new authorities have made some progress in areas such as business deregulation (streamlining registration procedures, limiting numbers of permits and inspections), simplification of the tax system (elimination of various distorting taxes of marginal importance), strengthening corporate governance (especially in relation to state-owned enterprises), transparency (broader access to public information), public procurement and amendments to anti-money laundering laws. The EFF also includes several incremental steps in the structural and institutional spheres as structural benchmarks. These concern, for example, strengthening the legal and financial independence of the NBU, gradually abandoning restrictions on current-account convertibility, establishing the National Anti-Corruption Bureau, Naftogaz restructuring, strengthening payment discipline in the energy sector and changes to the Civil Procedural Code.

Nevertheless, this is still too little (and often too slow) progress to ensure sufficient changes in the Ukrainian economy and governance structures. In several important spheres, the major reform agenda is still lagging far behind. This includes, for example, the reform of the judiciary and law-enforcement agencies, local and regional government, fighting corruption, bank restructuring, comprehensive business deregulation, civil service reform, tax and customs administration and tax collection procedures and privatisation of state-owned enterprises. The reform process also often lacks in comprehensiveness and implementation. Delay in implementation of the DCFTA (see above) also means slower pace of various important regulatory and institutional reforms and delays in building competitive markets.

### **Internal Politics and the Political Economy**

This brings us to the question of how determined the new president, parliament and government elected on pro-reform and pro-European platforms in 2014 are about reform. There is no problem of lack of pro-reform political mandate, but there is a question of effective reform leadership. This also involves the question of policy coordination between the president and prime minister (in the context of an unclear demarcation of their responsibilities), between the government and the Rada (parliament), and within the government coalition. Numerous incidents of spontaneous legislative initiatives in parliament, including the example of a law aimed at restructuring foreign-currency-denominated loans at very favourable exchange rate (for debtors), which would ruin the banking system and state budget<sup>112</sup>, point to serious problems in this area.

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<sup>112</sup>[http://24tv.ua/news/showNews.do?minfin\\_snova\\_rassmotrit\\_zakon\\_o\\_valjutnyh\\_kreditah&objectId=580788&lang=ru](http://24tv.ua/news/showNews.do?minfin_snova_rassmotrit_zakon_o_valjutnyh_kreditah&objectId=580788&lang=ru).

Obviously, the conflict with Russia distracts attention, political energy and resources from the domestic reform agenda. However, it also helps to consolidate and mobilise society around the president and government, and can justify politically unpopular decisions. **Time is working against the new Ukrainian authorities. Slow progress on reform will delay economic recovery and will weaken the Ukrainian state. It will make the period of pain and sacrifices longer with no visible gains. This might lead to popular disappointment and a weakening of the pro-reform mandate.** It will not help in confronting the external threats.

### **The Role of the International Community**

The international community, including the EU, should encourage and facilitate fast and consistent reform in Ukraine through sufficient and well-tailored assistance, which should address Ukraine's most important needs but also involve ambitious and demanding conditionality and far-going technical assistance. The latter should focus, among other things, on facilitating smooth implementation of the EU-Ukraine Association Agreement (AA) and DCFTA, which is a difficult task for the Ukrainian side given the numerous institutional weaknesses that the country suffers from. If done rapidly and successfully, implementation of the AA/DCFTA can help in institutional and regulatory convergence with the EU's *acquis* in several important areas and sectors, and provide an important external anchor for the domestic reform process<sup>113</sup>

To avoid the build-up of an excessive and unsustainable debt burden, part of the foreign aid package should be in the form of grants instead of loans. This concerns, for example, some infrastructure projects (especially those that can increase transport and transit facilities between Ukraine and the EU) or projects to strengthen Ukraine's defence capacities against external aggression.

Looking ahead, Ukraine and two other Eastern Partnership countries (Georgia and Moldova), which already signed AAs/DCFTAs with the EU, would benefit from ambitious roadmaps setting out closer cooperation in various areas, and step-by-step integration with the EU based on well-defined institutional conditionality.

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<sup>113</sup>Gligorov and Landesmann, 2015.

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## *Four Questions to Henri Malosse, President of the EU Economic and Social Committee, on His Visa Ban to Russia*

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*Henri Malosse is, as representative of the employers' organisation, the 30th President of the European Economic and Social Committee, a consultative institution to the other ones in the EU. The multilingual French is known as dedicated European. He is member of the EESC since 1995 and found himself on a list of 89 European politicians - one of four in France - on a visa ban list of Russia at the end of May 2015. This list showed that the EU sanctions worked, as it was declared to be a retaliatory measure to the EU sanctions.*

*Unlike the EU visa bans which can be contested and have clear reasons for every single case, the Russian visa bans cannot be contested and seem to be decided arbitrarily. - The interview was made by María del Carmen Aguilera García, on the above picture with Henri Malosse.*

***EUFAJ:*** *Mr. Malosse, you are on the list of EU politicians who are no longer allowed to travel to Russia. Were there any early warnings for the people on this list, and you can imagine why you're on this list?*

***Henri Malosse:*** I was very surprised to be one of the 89 EU public figures to be on the Kremlin black list as retaliatory measures after the EU issues sanctions against Russia following the annexion of Crimea and support to the separatists in Donetsk.

I understand that they put me on the list as I have been one of the most active EU leaders to give official support to Euromaidan movement. But I never expressed any hostility to Russia, just the opposite. I have just supported the civic movement for democracy and fight against corruption. This is why I was very disappointed.

***EUFAJ:*** *And did you intend to spend your next holiday in Russia?*

***Henri Malosse:*** I am very familiar with Russia, and I speak Russian. I have been there very often and have a lot of friends, including in Government and civil society organisations. I have been asked to give lectures at MGIMO, the diplomatic academy. I was even invited in summer 2013 to

attend the Seliger forum with young people where president Putin participated. I enjoyed there a total freedom of speech.

***EUF AJ:** If you would get Russian visitors in Brussels, as president of the EESC, would you receive them?*

**Henri Malosse:** Of course I am very open to welcome any Russian delegation. Dialogue is needed! I will even open end of June the Annual EU-Russia Civil Society Forum which will take place in Brussels,

***EUF AJ:** Isn't it a great appreciation of the EESC when its president suddenly gets a visa ban to Russia - which shows that Russia takes note of this institution?*

**Henri Malosse:** Yes, my name is now famous in Russia! I have been several times interviewed in very important media including 1st TV channel; they invited me to speak due to my moderate and open approach. I have always repeated that we shouldn't come to a new Cold War and that the Russian nation belongs to Europe. This is the paradox in this situation, but perhaps just apparently paradox. Russia wants to express its retaliation by issuing bans also to people known in Russia as rather pro-Russian.

***EUF AJ:** Thanks, Mr. Malosse, for your four replies!*

## *Russian New Language Minorities: Further Deterioration of Crimean Tatars' Situation after Annexation*

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Most of the Crimea's Tatar-language media have been shut down after the deadline for re-registration expired on April 1, 2015, Amnesty International says. Even children's shows face closure.

Tatar-language media outlets in Crimea were forced to close on April 1, or face heavy fines and criminal prosecution, Amnesty International announced on its website. Amnesty's International's deputy director for Europe and Central Asia, Denis Krivosheev, said that the Tatar language media came "under a sustained assault" after Russia annexed the Crimean peninsula a year ago. Most of Crimea's 300,000 Tatars took a pro-Ukrainian stance during the takeover. "This blatant attack on freedom of expression, dressed-up as an administrative procedure, is a crude attempt to stifle independent media, gag dissenting voices, and intimidate the Crimean Tatar community," Krivosheev said.

While the whole Crimean media was obligated to re-register under the Russian legislation before April 1, 2015, applications from Crimean Tatar websites, publications and broadcasters have been arbitrarily rejected or left without a reply, the human rights watchdog claims. Even the popular children's television channel *Lale*, as well as children's magazine *Armantchikh*, face closure. So far, only the Tatar-language newspaper *Yeni Dunya* has managed to obtain the re-registration. *(DW/Mercator Research)*

## *Stabilisation and Association Agreement: EU - Bosnia and Herzegovina Entered into Force*

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**Bosnia and Herzegovina is a very particular country: a country with very many ministers (of the state government, of the two entities), with two entities (the Republika Srpska and the Bosnian-Croatian Federation) and the Brcko territory, with a patchwork of municipalities "belonging" to one of these entities, with a long story of blockades by the Republika Srpska to any strengthening of the state structures and therefore with a very low process leading towards a European integration, but with a great football team, successful singers at the Eurovision Song Contest, and a thriving culinary and also university scene in its capital Sarajevo - but also with a history of shelling this capital, many thousands of refugees, the massacre of Srebrenica. Its situation has been helped by the consolidation by first UN and later EU military forces.**

**The country, like others in the Western Balkans, was identified as a potential candidate for EU membership during the Thessaloniki European Council summit in June 2003. Since then, a number of agreements between the EU and Bosnia and Herzegovina have entered into force - visa facilitation and readmission agreements (2008), Interim Agreement on Trade and Trade-related issues (2008) - and now the Stabilisation and Association Agreement (SAA) as such. The EU continues also to deploy considerable resources in Bosnia and Herzegovina within the framework of the Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP). The current EU Special Representative (EUSR), Lars-Gunnar Wigemark, is also Head of the Delegation of the European Union.**

The EUFOR/Althea mission continues to be present in Bosnia and Herzegovina. The operation was reconfigured and reduced to 600 troops as of 1 September 2012, focusing on capacity-building and training, while also retaining the means to contribute to the country's deterrence capacity. The EU remains committed to strengthening the rule of law in Bosnia and Herzegovina through other instruments, including the reinforced EUSR Office and the Instrument for Pre-accession Assistance (IPA).

In this situation and relatively late, the Stabilisation and Association Agreement (SAA) between the EU and Bosnia and Herzegovina (BiH) entered into force on 1st June 2015. The SAA establishes a close partnership between the EU and BiH and deepens the political, economic and trade ties between the two parties. It is from now on the main framework for the relations between

the EU and BiH, further preparing the country for future EU membership. All Western Balkan countries have an SAA now.

*"Today's full entry into force of the Stabilisation and Association Agreement is a milestone on Bosnia and Herzegovina's EU path. New chapter begins. Political clarity, decisive action and a real, coordinated effort by institutions at all levels are now needed to develop and implement the reform agenda. Tangible results will be fundamental for the Council to consider a membership application in the future. An overwhelming majority of BiH citizens want their country to join the EU and the leadership of the country needs to redouble its engagement and meet citizens' expectations," said Federica Mogherini, High Representative for Foreign Affairs and Security Policy/Vice-President of the Commission.*

*"I welcome the entry into force of the SAA as a defining moment in the relations between the EU and Bosnia and Herzegovina as well as an agreement which firmly sets BiH on an EU-accession path. At the same time, the SAA also brings new responsibilities stemming from its implementation and for BiH authorities to deliver upon. The Commission will spare no effort assisting the country's authorities in the implementation of the necessary reform agenda," said Johannes Hahn, Commissioner for European Neighbourhood Policy and Enlargement Negotiations.*

## **Background**

The SAA will more specifically upgrade the EU-BiH relations through the establishment of a dedicated institutional framework: SAA Council, SAA Committee as well as sectoral Sub-Committees; a SAA Parliamentary Committee will also be established between the European Parliament and BiH Parliamentary Assembly. The entry into force of the SAA will also increase the confidence of investors, domestic and international in the country. It will allow both Bosnian companies and EU companies to access their respective markets. This is conducive to enhanced business opportunities for both the EU and the BiH based companies and would stimulate economic growth and employment.

Finally, the SAA will also contribute to the progressive alignment of BiH norms and legislation with the EU legislation, thus benefiting BiH citizens through better quality, healthier and safer goods. The trade part of the SAA entered already into force on 1 July 2008 with the Interim Agreement. It still needs to be adapted to take into account the traditional trade with BiH before Croatia's EU accession.

The first meeting of the Stabilisation and Association Council is expected to take place in the second half of 2015.

## **More information**

Text of SAA on website of Delegation of the European Union to Bosnia and Herzegovina:

[http://europa.ba/documents/delegacijaEU\\_2011121405063686eng.pdf](http://europa.ba/documents/delegacijaEU_2011121405063686eng.pdf)

Council decisions: <http://www.consilium.europa.eu/en/press/press-releases/2015/04/21-bih-conclusion-stabilisation-association-agreement/>

## *Macedonia: Lake Ohrid Urbanisation Plans against Protection of Unique Species*

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Macedonia is at present not only the forum of demonstrations, following bizarre performances of its government: not only strange monuments like "riders in the storm" in its capital Skopje, but also about 20.000 citizens of the country illegally tapped by the government, a non-dialogue between government and opposition since the last elections which were said to be faked, and the pretext of the government, that the country must be held together, as it was once, in 2001, under threat of the secession of the Albanian part which is estimated between 25 and 30% of the population.

The EU will have to react, and if the country wants to join the EU - and there is no real alternative - it should reshuffle its policy towards the European Union. But here there is another case in focus, namely the Lake Ohrid - one of the gems of the country, bordering Albania which is also proudly possessing a part of the lake, which is a favourite holiday site of both Macedonia and Albania. So much a favourite holiday site, that in the city of Ohrid sometimes at summer weekends or during the holiday season one has to "fight against the stream", with a lot of people there on short or longer holidays.

Now the local government of the Macedonian district of Ohrid plans to drain the major part of the Studenchishte marsh at the shore of Lake Ohrid, enabling then the construction of hotels, luxury apartments and a yacht club. This would damage irrevocably this lake with a unique number of species, even on world level. Ohrid Lake is part of the trans-border UNESCO biosphere reservation Prespa-Ohrid in the Albanian-Macedonian border area, comprising besides the Prespa National Park in Albania also the Galicia and Pelister National Parks in Macedonia. Moreover, the Macedonian part of Lake Ohrid and its environment, as well as the city of Ohrid, are part of the United Nations World Nature and Cultural Heritage of Mankind.

The cross-border UNESCO biosphere reservation Prespa-Ohrid has been proclaimed in October 2014 only, after 10 years of preparation work: [http://www.unesco.org/new/en/media-services/single-view/news/inauguration\\_of\\_the\\_ohrid\\_prespa\\_transboundary\\_biosphere\\_reserve\\_a\\_watershed\\_of\\_unique\\_value/#.VUti06k99Zw](http://www.unesco.org/new/en/media-services/single-view/news/inauguration_of_the_ohrid_prespa_transboundary_biosphere_reserve_a_watershed_of_unique_value/#.VUti06k99Zw)



Lake Ohrid: This view cannot be closed by hotel and apartment buildings, as it is an old orthodox church adjacent to older excavations. The inner town has an old Roman amphitheatre. Photo by LIBERTAS - Europäisches Institut GmbH

"The district government of Ohrid have committed themselves to maintain the high number of species in the biosphere reservate. The current development plan does not comply with this objective. We ask those responsible to withdraw these plans", Mr. Gabriel Schwaderer says, the Managing Director of EuroNatur, a Germany-based foundation for the protection of nature. This was also the result of a strategic examination of environmental acceptability which has been presented in Ohrid in mid-January 2015. According to this study the intended interventions would "directly negative impact the uniqueness of the ecological system of Lake Ohrid". The only way to avoid this is not to implement this plan.

"The Studenchishte marsh is one of the last natural filters for the water of the lake and has to be preserved urgently", EuroNatur project leader Mr. Thies Geertz says. The present-day construction boom is one of the biggest dangers for the species multitude of Lake Ohrid. During the past years hotels and apartment houses have mushroomed at its shores. As there is now a higher density of population, there is an additional environment stress due to sewage water, too. The influx of nutritive substances tend more and more to bring the fragile ecological system to an imbalance. The Ohrid Lake is a real hotspot of biodiversity: around 1.200 flora and fauna species find here an ideal space - of which not less than 212 endemic species, i.e. animals and plants which exist only around and in this lake. But this extraordinary biodiversity is very fragile: Many of these species

live in a small zone of the lake. This makes them vulnerable for all environmental changes. An international research team around the scientists Thomas Wilke and Christian Albrecht from Giessen University, in Hessen, Germany, stated already in 2008 that many fauna and flora species typical for the region had died out, while at the same time species strange to the lake region have immigrated.



One of the lakes on the earth with many endemic species - Lake Ohrid in Macedonia and Albania.  
Photo by Gabriel Schwaderer

As if there were no environmental arguments, the local government is driving their urbanisation plans for the shores of Lake Ohrid. In the meantime, a local citizens' platform "SOS Ohrid" has been created against the construction intentions: <https://ohridsos.wordpress.com/about/>. Also the renowned Hydrobiological Institute in Ohrid joins the criticism of the district government. "We fear that the present-day construction will be only the start of a whole series of interventions into the landscape. The objective is to create always more luxury apartments and hotels. If the local government does not immediately change its policy, the unique richness of species of Lake Ohrid will be gone forever", Thies Geertz says. According to EuroNatur, Lake Ohrid should be put on the "Red List of Endangered World Heritage".

On the EuroNatur projects in the Prespa-Ohrid region of Macedonia and Albania, see the Website <http://www.euronatur.org/Prespa-Ohrid.1069.0.html>. Or write to the foundation based in Radolfzell/Lake Constance, Germany: [info@euronatur.org](mailto:info@euronatur.org).

## *European Parliament: Targeting Tax Evasion in Developing Countries*

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**Members of European Parliament (MEPs) of the Committee on Development called on companies in all countries to adopt country-by-country flows in developing countries, in a resolution adopted on 1st June, 2015. It also called on the EU's financial institutions to ensure that companies receiving EU support do not participate in tax evasion and avoidance.**

"Given the importance of better mobilisation of domestic resources and the problems that developing countries face in tackling tax evasion and tax avoidance, we need a list of strong recommendations that the EP should support, in view of the Financing for Development Conference to be held in Addis Ababa and the range of existing international initiatives to reform the global tax system," said the European Parliament rapporteur, Ms. Elly Schlein (S&D, Italy), in her report.

### *What is the background?*

*Developing countries raise substantially less revenue than advanced economies (with a tax-to-GDP ratio ranging between 10% to 20%, as opposed to 30% to 40% of OECD economies) and are characterised by extremely narrow tax bases.*

*Tax havens and secrecy jurisdictions that allow banking or financial information to be kept private, combined with 'zero-tax' regimes to attract capital and revenues that should have been taxed in other countries, are said to generate harmful tax competition, undermine the fairness of the tax system and distort trade and investment, particularly affecting developing countries, with a loss of an estimated \$189 billion of tax revenue annually.*

### **Country-by-country reporting and publicly available information**

MEPs say that listed and unlisted multinational companies in all countries and sectors, especially companies extracting natural resources, must adopt country-by-country reporting (CBCR) as standard. This requires them to publish as part of their annual report, on a country-by-country basis for each territory in which they operate, the names of all subsidiaries, their financial performance, relevant tax information, assets and number of employees, and to ensure that this information is publicly available.

They also call for information on beneficial ownership of companies, trusts and other institutions be made publicly available in open-data formats, in order to prevent anonymous shell companies and comparable legal entities from being used to launder money, finance illegal activities or terrorist activities.

### **No EU support for companies evading tax**

The development committee calls on the European Investment Bank (EIB), the European Bank for Reconstruction and Development (EBRD) and financial institutions in the EU member states that fund development to monitor companies or other legal entities that receive support and ensure that they do not participate in tax evasion and avoidance by interacting with financial intermediaries established in offshore centres and tax havens and by facilitating illicit capital flows.

The committee calls on the Commission to put forward an ambitious action plan without delay to support developing countries in fighting tax evasion and tax avoidance and in setting up fair, well-balanced, efficient and transparent tax systems.

### **Next steps**

The resolution was passed unanimously, with 24 votes in favour. The plenary vote is scheduled for the July session in Strasbourg (6-9 July 2015).

## *Europe-Pacific ACP States: When Comes the Comprehensive Economic Partnership Agreement?*

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*As visible through a press release by the Pacific Islands Forum Secretariat from mid-May 2015, Pacific ACP States (ACP means Africa Caribbean Pacific, the group of 80 states from the developing world with a directly concluded agreement) are very concerned with the European Commission's (EC's) reluctance to meet with the Pacific region to conclude a deal on a development friendly Comprehensive Economic Partnership Agreement (CEPA). Whoever is concerned by a balanced view of the EU on all regions of the globe, whoever sees the high level of coincidence e.g. in climate concerns between the EU and the Pacific islands which are directly threatened by climate change, and who knows what it means if a group of countries - be they all very small and even micro states in the European sense, such a politician or observer above all from the EU should know the perception the EU has made on the Pacific states.*



Pacific Islands Forum

vs.



European Commission

The EC Trade Commissioner has called for a deferment of the CEPA negotiations for three years and seeks reforms of the region's fisheries management systems. Pacific nations have expressed their strong disappointment at the EC's decision -- particularly in light of the reassurance of the European Union's (EU's) strong commitment to the CEPA process provided to Pacific leaders by the former EU High Representative for Foreign Affairs, Baroness Catherine Ashton, at the Pacific Islands Forum in Palau in August 2014.

In echoing the Pacific States' strong concerns with the EC's proposal to defer the CEPA negotiations, the Secretary General of the Pacific Islands Forum Secretariat, Dame Meg Taylor highlighted that "the European Commission has not met the Pacific region in a formal face to face

negotiation at senior officials level since October 2013 and has not met with Pacific ACP Trade Ministers for a formal negotiation since 2007. On the directive of Leaders, Pacific ACP States have invested substantial time and resources in the regional pursuit of a development friendly comprehensive EPA that resolves the contentious issues in the interim EPA. For the European Commission to propose a deferment of the negotiations without a formal political dialogue, particularly given its previous assurance to Pacific Leaders in 2014, is unacceptable.”

Secretary General Taylor also noted her disappointment at the EC’s continued attempts to get the bigger Pacific island nations to sign onto an interim EPA. Pacific island States and the EC had agreed that the interim EPA would be an “interim” arrangement and had committed to the negotiation of a CEPA. As it stands, the interim EPA would leave Smaller Island States behind as they do not have the capacity to benefit from the agreement: “the EC must recognise the asymmetric dimensions of this negotiation and must act accordingly and treat the Pacific region fairly by taking into account the interests of all Pacific ACP States, including Smaller Island States, in the negotiation on the development friendly CEPA and refrain from focusing only on the major economies in the region – this is the essence of regional economic integration.” If these indeed have been the reasons which led to the deferral, then the EU would have to ask themselves if they have not demanded too much from the little states, from their integration capacity and if they did not demand a bit too much of their partners. This also in view that the Pacific States are all part of the UN Assembly, with one vote per state. What has been released in May 2015 by the Pacific Islands Forum, is more a cry for institutional help.

The negotiation for a CEPA with the EC has been ongoing since 2004. Secretary General Taylor noted that **the European Commission had previously refused to meet the Pacific region from 2009 – 2011 and this led to a substantial delay in the progress of the CEPA negotiation, while other regions such as West Africa, Southern Africa and East Africa have been able to conclude CEPAs in 2014. Pacific Island States have acknowledged that the outstanding contentious issues remaining in the CEPA negotiation will require political guidance, however, if the parties are to resolve these issues it will not be achieved through a deferment in the negotiation but through face to face engagement at the ministerial level.**

In accordance with the EU’s commitments under the Cotonou Partnership Agreement, a CEPA will provide for sustainable and inclusive economic growth and development, promote the increased participation of the Pacific region in global trade and make meaningful gains towards poverty alleviation. All this is also in the full interest of the EU.

### **EU and Pacific Islands Forum Secretariat Signed 166 mill EUR for the Pacific Regional Indicative Programme**

In mid of June 2015, there was other news regarding the Regional Indicative Programme (RIP) for the period 2014-2020.



*The European Commissioner for International Cooperation and Development, Mr. Neven Mimica, and the Secretary General (SG) of the Forum Secretariat, Dame Meg Taylor, signed the 11<sup>th</sup> EDF Pacific RIP in Suva today. The Pacific RIP will benefit the 15 Pacific ACP countries (Cook Islands, Timor-Leste, Fiji, Kiribati, Federated States of Micronesia, Nauru, Niue, Palau, Papua New Guinea, Republic of the Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu).*

The key priorities under the Pacific RIP include regional economic integration; sustainable management of natural resources and the environment, and the management of waste; and inclusive and accountable governance. These priorities were determined through a consultative process which commenced in 2012, involving all the Pacific ACP States, technical agencies in the region, civil society and other key stakeholders.

“The region welcomes the EU’s commitment to the Pacific. The 11<sup>th</sup> EDF Pacific RIP is anchored in the vision, values and the objectives of the Framework for Pacific Regionalism,” says Dame Meg Taylor. “The Pacific RIP reflects the region’s commitment to advance Pacific regionalism beyond regional cooperation towards deeper forms of regional integration where there are clear prospects and equitable benefits to be gained.”

Commissioner Mimica, on his first mission to the Pacific, reaffirmed the role of the European Union as a reliable partner of the Pacific and highlighted the importance of the regional programme.

"Our ambition is to support the sustainable development of opportunities and resources in the Pacific region. The new governance arrangement will involve Pacific countries more closely

in the programming, design, implementation, monitoring and evaluation", Commissioner Mimica said.

A wide spectrum of stakeholders including National Authorising Officers, Development Partners, International Organisations, Council of Regional Organisations for the Pacific, Sub-regional Organisations, Technical Agencies and Non State Actors attended the signing ceremony. The 11<sup>th</sup> EDF Regional Steering Committee for the Pacific will further discuss the implementation plan for the Pacific RIP, including the intended support to investment projects.

### **Background information**

The cooperation between the EU and the Pacific members of ACP began in 1975 with the signing of the Georgetown Agreement. The Pacific ACP States have benefited from a number of financial programmes provided through the European Union, including the 11<sup>th</sup> EDF Pacific RIP. The PIFS has the role of the Duly Mandated Regional Organisation. The 10<sup>th</sup> EDF Pacific RIP continues to be implemented and the preparations for the implementation of the 11<sup>th</sup> EDF Pacific RIP, following its signature are expected to be completed in the coming months.

# *Minimal Action, Maximal Potential? The Dominican Republic and its Relations with the European Union*

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## **Matthias Major**



*Mathias studied Political Science and Law at the University of Bremen (Germany). He earned his MA degree in International Studies from the University of the Basque Country EHU / UPV (Spain). He is currently pursuing doctoral studies in International Relations at the University of the Basque Country EHU / UPV. Mathias is a researcher on issues of conflicts of stateless nations, nationalism, European integration and evolution of an actual state in the context of globalization.*

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## **Introduction**

At first sight the relations and cooperation between the EU and the Dominican Republic and the question of its benefit or its unused potential might seem for some confusing for obvious reasons: situated in the northern part of the Caribbean islands chain, the Dominican Republic is geographically, historically, economically and socially close to its neighboring countries, islands and the mainland of Central and South America, as well as to the regional and global power, the United States of America. Under such conditions and within the mentioned context, the answer on the question regarding the importance of such cooperation might also seem to have a negative tendency.

Nevertheless, a second look can as well reveal arguments that have not yet been identified and underlined clearly for encouraging stronger relationship between the Dominican Republic and the EU and for promoting a close cooperation on economic and political levels.

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<sup>114</sup> “Diplomacia-Dominicana” publishes articles both in Spanish and English. Its authors are Matthias Major and Eduardo Redondo H. The website of the blog is <http://diplomacia-dominicana.com/>

The aim of the article is to highlight such arguments in order to evaluate whether stronger relations and a deeper cooperation might be useful and fruitful for both.

A general picture of why the EU, and not solely separate states, is gaining more importance, as well as the relations and cooperation between the EU and the Dominican Republic will be presented to frame the existing initiatives. Subsequently, an investigation of the needs and possibilities of the cooperation between the two will be examined. A final evaluation will show whether a stronger link between both sides should be promoted or is even necessary.

### **Dominican-European Relations — Why highlighting the EU and not singular countries?**

Understanding the European Union in the terms known today is not easy for the reasons, that such a *suis generis* supranational structure has never existed before and that it is not a “superstate“ like the Soviet Union was, for example. Therefore, it is important to remember that since its beginnings the EU has been based on treaties and prior unions. It is more than a common market, but rather a political, social and historical project aimed to unify Europe politically, economically and socially. In short, it brings to the idea that to compete as a global player within a globalizing world, singular countries can’t act as a single state, as a maverick but look for a strong cooperation. Through this supranational structure — which is still in construction — not only national economies are given access to the EU common market but also the standardization of juridical norms applied to the national level is a part of the top-to-down creation of what is called the “United Europe”. The Euro, as a common currency, the mentioned implemented EU laws into national ones as a part of the shared sovereignty, European policy, cooperation on regional, military, cultural, etc. level, the freedom of movement of EU citizens are only some of the many examples of how the European Block functions.

In other words, with its ongoing construction the EU gains more weight as a global player and, therefore, also more influence which makes it more attractive partner for cooperation on the international level and, in this case, also for the Dominican Republic.

### **Existing Cooperation between both is new**

The existing relations between the EU and the Dominican Republic exist both on bilateral and regional levels. On the bilateral level the EU-Dominican Republic cooperation strategy existed for the period 2008 — 2013, which focused mainly on General Budget Support and Sector Budget Support to Education and Governance. A further bi-national cooperation includes Haiti, within a project for the development of cross border cooperation with it.

At regional level, i.e. on the Caribbean level, in 2008 the Economic Partnership Agreement (EPA) was signed between the EU and the Caribbean Forum (CARIFORUM countries) with the objective to create a framework to promote and facilitate trade, development assistance and investments for all the parties. A further point has been the promotion of regional integration.

A more recent is the 2012-signed Joint Caribbean-European Union Partnership Strategy, aimed to enhance relations between the Caribbean and the EU and broaden it by including a political pillar in addition to the traditional development and trade-based cooperation relationship. The main focuses here are Haiti reconstruction, Regional Integration, Natural Disasters and Climate Change, Crime and Security, such as Joint Action in Multilateral Fora.

As we can see, the cooperation initiatives have been recent but, especially within the last decade they have strengthened by new and deeper agreements, strategies and meetings. It is indeed an advantage to promote both regional and bilateral relations and their strengthening. For various reasons both can be mutually beneficial.

A decade for deep relations is not a long time and the agreement of 2008 clearly underlines deficits within the Dominican Republic: corruption, a tremendous inequality between the rich and the poor, criminality, the low human development index, a lack of transparency of government activities and the need of a further development towards a complete democracy, the independence of the justice system, widespread poverty (to name only some!) — problems detected and signed both by a legitimated representative of the Dominican Republic Government and the European Commission. This means there is a need for development from the Dominican Republic side and the EU as a promoter willing to aid with its know-how and financial aid. Facing internal problems of the Dominican Republic by naming them should not be seen as an attempt to interfere into internal affairs by a good looking Trojan horse, made of noble aims, but rather developing those internal features would give legal certainty and, therefore, security on all levels for both partners.

The attractiveness of the EU as a strong partner for the Dominican Republic hasn't yet been recognized to a full strength. The EU is an attractive partner for the Dominican Republic, one that can provide a lot more than the traditional trading and development relations. As a functioning example of regional integration; it can be a model of how regional integration of sovereign states can give benefits to its member states by forming an economic and political as well as a social block.

In an everyday more globalizing world, the states, that are small and isolated from blocks, could play more a role of an independent junior partner for such economic and political superpowers as the United States of America and the BRIC-States, such as African, Asian and other South American states that are emerging in these terms. Therefore, regional integration, for example through a Union, could provide a higher importance especially for small states. Promoting the idea within the Caribbean could be interesting for the future in order to gain more independence in economic and political terms from such superpowers and build an own certain weight.

The EU has its know-how, experience of how to get rid and overcome remaining autocratic elements within national political and economic as well as social systems. Furthermore, the EU has the economic resources to support the estimated and aimed efforts.

On a bilateral level, the EU can indeed promote improvements and reforms regarding the emphasized deficits and help to develop the Dominican Republic, e.g. on the regional level: know-how, experience and economic aid.

Combined with the regional integration development, the EU could play a decisive role in not only strengthening the Caribbean Block as an independent geographical entity but also bring huge benefits to the Dominican Republic: Since the political relations between the Dominican Republic and the United States of America have been traditionally strong, a further strengthening of the economic relations between the Dominican Republic and the EU could amplify the political relation scale of the Dominican Republic. This would mean to go a bit further than the position of the junior partner and a certain dependency from the United States of America, which is understandable for geographical and historical reasons, but also limit the possibilities of action of the Dominican Republic. In other words, staying in its comfort zone has also impeded the abilities of Dominican international relations in its ability to explore the huge variety of possibilities in order to broaden its horizon and to rise up to a new level as a possible regional or even more important global player than it is today.

Traditional bilateral relations between states — for example between the Dominican Republic and Germany, the United Kingdom or Spain — will also further exist and not disappear as the states will also be within integrated structures, like the EU, the main actors according to experts. Integration has its effects on the states and their laws as well as on their internal and external interests and possibilities. It also transforms traditional relations by raising the importance of the European Union, as an entity. Taking this into account when thinking about its relations with the European states, is, hence, indispensable for the Dominican Republic and, therefore, needs a rethinking by focusing more on the EU as a partner, as already said.

By more strengthening the relations between the Dominican Republic and the European Union, a benefit for all could be the result: an implication of economic and political possibilities for the Dominican Republic such as a development by a strong partner besides the United States of America. The EU, in its turn, would promote values which have assured peace, political and economic development in Europe and could strengthen its position as an important and reliable partner for the Dominican Republic and the whole Caribbean, not by a new form of colonialism but rather in an order which will be adequately beneficial for all the partners. This doesn't mean that the efforts undertaken so far to establish strong relations are to be underestimated or even debased — the opposite is the case: the relations aren't deep enough and the big potential for both hasn't probably been recognized and, maybe, realized with its whole capacity and importance both for the Dominican Republic and the European Union.

## *Documentation: Treaty on the Eurasian Economic Union (Art. 1-24)*

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*The Russian-led Eurasian Economic Union understands itself, at least on behalf of Russia, as a possible counterpart to the European Union. We want to enable our readers to judge themselves the organizational set-up of the EEU themselves. We will provide an unofficial translation of the EEU Treaty into English chapter by chapter, also commenting and comparing the treaty towards the EU structure. Here we start with Articles 1-24 of the EEU Treaty.*

The Republic of Belarus, Kazakhstan and the Russian Federation, hereinafter referred to as Parties,

**based** on the Declaration on Eurasian Economic Integration of 18 November 2011,

**guided** by the principle of the sovereign equality of States, the requirement for unconditional respect for the rule of constitutional rights and freedoms of man and citizen,

**desiring** to strengthen solidarity and deepen cooperation between their peoples while respecting their history, culture and traditions,

**convinced** that the further development of the Eurasian economic integration is in the national interest of the Parties,

**resolved** to strengthen the economies of the member states of the Eurasian Economic Union and ensure their harmonious development and convergence, as well as ensure steady growth in business activity, balanced trade and fair competition,

**providing** economic progress through joint actions to meet the common objectives that the member states of the Eurasian Economic Union have - sustainable economic development, comprehensive modernization and strengthening the competitiveness of national economies in the global economy,

**confirming** the commitment to further strengthening of economic mutually beneficial and equal cooperation with other countries but also with international integration associations and international organizations,

**in view of** the rules, regulations and principles of the World Trade Organization,

**confirming** its commitment to the purposes and principles of the Charter of the United Nations and other universally recognized principles and norms of international law,

have agreed upon:

## PART 1

### **ESTABLISHMENT OF THE EURASIAN ECONOMIC UNION**

#### Section I

#### GENERAL PROVISIONS

##### Article 1

The Establishment of the Eurasian Economic Union.

##### Personality

1. The Parties hereto establish the Eurasian Economic Union (hereinafter - Union, EAEC), within which ensures free movement of goods, services, capital and labor, a coordinated, coherent and unified policy in the economic sectors defined in this Treaty and international agreements within the Union are ensured.
2. The Union is an international organization of regional economic integration, having an international legal personality.

##### Article 2

##### Definitions

For the purposes of this Treaty, the notions used are defined as follows:

"Harmonization of legislation" - the approximation of the legislation of the Member States, aimed at establishing analogous (comparable) legal regulation in certain spheres;

"Member States" - the states that are members of the Union and parties to this Agreement;

"Officials" – citizens of the Member States, appointed as directors of the departments of the Eurasian Economic Commission and deputy directors of the directors of the departments of the Commission as well as the directors of the Secretariat of the Court of the Union, deputy directors of the Secretariat of the Court of the Union and advisers of the judges of the Court of the Union;

"Single economic space" - the space consisting of the territories of the Member States, where operate analogous (comparable) and uniform mechanisms for regulating the economy based on market principles and application of harmonized or unified legal norms, and there is a single infrastructure;

"Common policy" - the policy, implemented by the Member States in certain spheres contemplated by this Treaty, alleged use of unified legal regulation by the Member States, including on the basis of the decisions made by the institutions of the Union in the framework of their authority;

"International agreements within the Union" - international agreements between the Member States on the issues related to the operation and development of the Union;

"International agreements of the Union with a third party" - international agreements with third countries, their integration associations and international organizations;

"Common (single) market" - a set of economic relations within the Union, which provide freedom of movement of goods, services, capital and labor;

"Disposal" - the act taken by the institutions of the Union, which has an organizational and administrative character;

"Solution" - the act taken by the institutions of the Union, containing regulatory-legal provisions;

"Coordinated policy" - a policy, which implies implementation of cooperation among the member states on the basis of common approaches, approved by the institutions of the Union needed to achieve the objectives of the Union contemplated under this Treaty;

"Coherent policy" - a policy implemented by the Member States in various spheres, implying legislation harmonization, including on the basis of the decisions taken by the institutions of the Union, to the extent necessary to achieve the objectives of the Union contemplated under this Treaty;

"Employees" - citizens of the Member States who work in the institutions of the Union on the basis of the employment agreements (contracts) concluded with them and who are non-officials;

"Customs union" - a form of trade and economic integration of the Member States, which provides a single customs area, within which on the mutual trade customs duties (other duties, taxes and charges having equivalent effect), non-tariff measures, special protections, antidumping and countervailing measures do not apply, there operates a unified customs tariff of the Eurasian Economic Union and common measures, regulating external trade in goods with a third party;

"Third party" - a state, which is not a member state of the Union, an international organization or international integration association;

"Unification of the legislation" - the approximation of legislation of the Member States, aimed at establishing identical legislative mechanisms in certain areas defined by this Treaty.

Other terms, used in this Treaty, shall have the meaning defined in the relevant sections of this Agreement and its annexes.

## Section II

### BASIC PRINCIPLES, OBJECTIVES, COMPETENCE AND LAW OF THE UNION

#### Article 3

##### The basic principles on the functioning of the Union

The Union carries out its activities within the competences, granted to it by the Member States in the framework of this Treaty, on the basis of the following principles:

- respect for the universally recognized principles of international law, including the principles of sovereign equality of the Member States and their territorial integrity;
- respect for the distinctions of the political structures of the Member States;
- provision of mutually beneficial cooperation, equality of rights and consideration of the national interests of the parties;
- adherence to the principles of the market economy and fair competition;
- the functioning of the Customs Union without exceptions and limitations after the transition periods.

The Member States shall create favorable conditions for the Union's fulfillment of its functions and they shall refrain from measures which may jeopardize the achievement of the objectives of the Union.

#### Article 4

##### The main objectives of the Union

The main objectives of the Union are:

- the creation of conditions for the stable development of the economies of the Member States in order to improve the living standards of their population;
- the desire to form a single market for goods, services, capital and labor within the Union;
- comprehensive modernization, cooperation and increased competitiveness of national economies in the global economy.

## Article 5

### Competence

1. The Union shall have the competences identified within the limits and scope established by this Treaty and by the international agreements within the Union.
2. The Member States shall carry out a coordinated and coherent policy within the limits and the scope, established by this Treaty and by the international agreements within the Union.
3. In other areas of the economy, the Member States seek to implement a coordinated or harmonized policies in accordance with the basic principles and objectives of the Union.

For that purpose, with the decision of the Supreme Eurasian Economic Council subsidiary bodies (boards of the heads of the state authorities of the parties, working groups, task forces) in the relevant areas can be established and (or) be instructed by the Eurasian Economic Commission for the coordination of the relationship of the parties in the respective fields.

## Article 6

### Law of the Union

1. The law of the Union consists of:
  - this Treaty;
  - international agreements within the Union;
  - international agreements of the Union with a third party;
  - decisions and orders of the Supreme Eurasian Economic Council, the Eurasian Intergovernmental Council and the Eurasian Economic Commission, adopted within the framework of their competences under this Treaty and international agreements within the Union.

Decisions of the Supreme Eurasian Economic Council and the Eurasian Intergovernmental Council shall be implemented by the Member States in accordance with their national legislation.

2. International agreements of the Union with a third party should not contradict the basic objectives, principles and rules of the functioning of the Union.
3. In the event of a conflict between international agreements within the Union and this Treaty, this Treaty has the superiority.

Decisions and orders of the Union shall not be inconsistent with this Treaty and international agreements within the Union.

4. In case of a conflict between the decisions of the Supreme Eurasian Economic Council, the Eurasian Intergovernmental Council and the Eurasian Economic Commission:

- the decisions of the Supreme Eurasian Economic Council shall have superiority over the decisions of the Eurasian Intergovernmental Council and the Eurasian Economic Commission;
- the decisions of the Eurasian Intergovernmental Councils shall have superiority over the decisions of the Eurasian Economic Commission.

#### Article 7

##### International activities of the Union

1. The Union shall have the right to exercise international activities within its competences, aimed at addressing the challenges facing the Union. As part of such activities, the Union has the right to engage in international cooperation with states, international organizations and international integration associations and independently or jointly with Member States conclude with them international agreements on matters within its competences.

The procedure for the Union to establish international cooperation is set by the decision of the Supreme Eurasian Economic Council. The questions on the conclusion of international agreements between the Union with a third party are defined by international agreement within the Union.

2. Negotiations on the draft international agreements of the Union with a third party, as well as their ratification are carried out on the basis of the decision of the Supreme Eurasian Economic Council after the fulfillment of the relevant domestic procedures by the Member States.

The decision on the consent of the Union to be bound by the terms of international agreement between the Union with a third party, termination, suspension or withdrawal of an international treaty is adopted by the Supreme Eurasian Economic Council after all the Member States fulfill the necessary domestic procedures.

#### Section III

##### INSTITUTIONS OF THE UNION

#### Article 8

##### Institutions of the Union

1. The institutions of the Union are:

- Supreme Eurasian Economic Council (hereinafter - the Supreme Council);
  - Eurasian Intergovernmental Council (hereinafter - the Intergovernmental Council);
  - Eurasian Economic Commission (hereinafter - the Commission, EEC);
  - Court of the Eurasian Economic Union (hereinafter - the Court of the Union).
2. The institutions of the Union shall act within the competences accorded to them by this Treaty and international agreements within the Union.
3. The institutions of the Union shall act on the basis of the principles set forth in Article 3 of this Treaty.
4. The Presidency of the Supreme Council, the Intergovernmental Council and the Commission shall be on a rotational basis in the Russian alphabetic order, with one Member State within one calendar year without the right of extension.
5. The conditions for the location of the institutions of the Union in the territories of the Member States are determined by separate international agreements between the Union and the state where the institution is to be located.

## Article 9

### Posts in the structural units of the permanent institutions of the Union

1. The citizens of the Member States, with relevant specialized education and work experience, have the right to hold posts in the structural units of the permanent institutions of the Union.
2. The officials of the departments of the Commission cannot be the citizens of the one and the same state. The selection of the candidates for these posts is made by the competition commission of the EEC with regard to the principle of equal representation of the parties. The candidacies for the participation in the competition for the given posts are submitted to the Board of the Commission from the respective party.
3. The selection of the candidates for other positions in the departments of the Commission shall be made by the EEC on a competitive basis, in view of the equity of the parties in the financing of the Commission.
4. The competition committee of the EEC for the selection of candidates for the posts, referred to in point 2 of this article, includes all the members of the Board of the Commission with the exception of the Chairman of the Board of the Commission.

The Competition Committee of the EEC shall take its decisions in the form of recommendations by a majority vote and submit them to the Chairman of the Board of the Commission for approval. If the decision of the Chairman of the Board of the Commission on a certain candidate is in

contradiction with the recommendation of the Competition Committee of the EEC, the Chairman of the Board of the Commission shall submit the question to the Council of the Commission for a final decision.

The regulations on the Competition Committee of the EEC (including the rules of the competition), its composition and the qualification requirements for the candidates for the post of directors and deputy directors of the Commission are approved by the Council of the Commission.

5. The procedure for the selection of the candidates and the appointment to the posts in the Office of the Court of the Union shall be in accordance with the regulations of the Court of the Union.

## Article 10

### The Supreme Council

1. The Supreme Council is the supreme institution of the Union.
2. The Supreme Council consists of the heads of the Member States.

## Article 11

### The Regulation of the Supreme Council

1. The meetings of the Supreme Council shall be held at least annually.

To solve urgent issues on the functioning of the Union, an extraordinary meeting of the Supreme Council can be convened on the initiative of any of the Member State or the Chairman of the Supreme Council.

2. The meetings of the Supreme Council are held under the chairmanship of the Supreme Council.

The Chairman of the Supreme Council:

- chairs the meeting of the Supreme Council;
- organizes the work of the Supreme Council;
- implements the general management for the preparation of the issues that are to be presented to the consideration of Supreme Council.

In the event of an early termination of the authorities of the Chairman of the Supreme Council, the new member of the Supreme Council from the chairing Member State exercises the authorities of the Chairman of the Supreme Council for the remaining period.

3. Members of the Council of the Commission, the Chairman of the Board of the Commission and other invited persons may participate in the meetings of the Supreme Council with the invitation of the Chairman of the Supreme Council.

The list of the participants and the format of the meetings of the Supreme Council are determined by the Chairman of the Supreme Council in consultation with the members of the Supreme Council.

The agenda of the meetings of the Supreme Council shall be formed by the Commission on the basis of the proposals from the Member States.

The question regarding the presence of the accredited media representatives at the meetings of the Supreme Council is decided by the Chairman of the Supreme Council.

4. The procedure for the organization of the meetings of the Supreme Council shall be approved by the Supreme Council.

5. Organizational, informational and logistical support to the preparation and the conduct of the meetings of the Supreme Council is done by the Commission with the assistance of the host Member State. The meetings of the Supreme Council are funded from the budget of the Union.

## Article 12

### The Authorities of the Supreme Council

1. The Supreme Council shall observe the main activities of the Union, define the strategy, the direction and prospects of the development of the integration, and makes decisions, aimed at achieving the objectives of the Union.

2. The Supreme Council has the following main authorities:

1) determines the strategy, direction and prospects for the formation and development of the Union and makes decisions, aimed at fulfilling the objectives of the Union;

2) approves the composition of the Board of the Commission, allocates the responsibilities among the members of the Board of the Commission and terminates their authorities;

3) appoints the Chairman of the Board of the Commission and makes a decision on an early termination of his authorities;

4) appoints the judges of the Court of the Union presented by the Member States;

5) approves the Regulations of the Eurasian Economic Commission;

- 6) approves the budget of the Union, the Regulation on the budget of the Eurasian Economic Union and the report on the budget of the Union;
- 7) determines the size (scale) of equity contributions from the Member States to the Union budget;
- 8) reviews, on the proposal of a Member State issues, relating to the termination or change of the decisions adopted by the Intergovernmental Council or the Commission, in view of paragraph 7 of Article 16;
- 9) reviews, on the proposal of the Intergovernmental Council or the Commission issues, on which no consensus was reached when they were decided;
- 10) makes a request to the Court of the Union;
- 11) confirms the procedure for checking the authenticity and completeness of information on the income, property and property obligations of the judges of the Court of the Union, officials and employees of the Staff of the Court of the Union, as well as their family members;
- 12) defines the regulation for the accession of new member states to the Union and the termination of the membership from the Union;
- 13) decides on the granting or annulment of an observer status or a status of a candidate state for the accession to the Union;
- 14) approves the regulation for the implementation of the international cooperation by the Eurasian Economic Union;
- 15) makes decisions on the negotiations with a third party on behalf of the Union, including the conclusion of international agreements with it and the Union, and the conferred right to negotiate, as well as show consent of the Union to be bound by an international agreement with a third party, its termination, suspension or withdrawal from an international agreement;
- 16) approves the overall number of the staff in the institutions of the Union, the parameters of the representation of the officials from the number of the citizens of the Member States in the institutions of the Union, determined by the Member States on a competitive basis;
- 17) approve the procedure for the remuneration of the members of the Board of the Commission, the judges of the Court of the Union, officials and employees of the Union;
- 18) approves the regulations on the external audit (control) in the institutions of the Eurasian Economic Union;
- 19) administers the results of the external audit (control) in the institutions of the Union;
- 20) approves the symbols of the Union;

- 21) gives assignments orders to the Intergovernmental Council and the Commission;
- 22) decides on the establishment of subsidiary bodies in the relevant areas;
- 23) exercises other liabilities, determined by this Treaty and international agreements within the Union.

## Article 13

### The Decisions and Directives of the Supreme Council

1. The Supreme Council shall make decisions and directives.
2. The decisions and directives of the Supreme Council shall be taken by consensus.

The decisions of the Supreme Council, related to the termination of the membership of the Member State from the Union shall be taken on the principle of "consensus minus the vote of the Member State which has notified its intention to terminate its membership to the Union."

## Article 14

### The Intergovernmental Council

The Intergovernmental Council is the institution of the Union, consisting of the heads of the governments of the Member States.

## Article 15

### The Operation of the Intergovernmental Council

1. The meetings of the Intergovernmental Council are held as necessary, but at least twice a year.  
To solve urgent issues on the functioning of the Union, an extraordinary meeting of the Intergovernmental Council can be convened on the initiative of any of the Member State or the Chairman of the Intergovernmental Council
2. The meetings of the Supreme Council are held under the chairmanship of the Intergovernmental Council.

The Chairman of the Intergovernmental Council:

- chairs the meeting of the Intergovernmental Council;
- organizes the work of the Intergovernmental Council;
- implements the general management for the preparation of the issues that are to be presented to the consideration of the Intergovernmental Council

In the event of early termination of the authorities of the Chairman of the Intergovernmental the new member of the Intergovernmental Council chairing Member State exercises the authorities of the Chairman of Intergovernmental Council for the remaining period.

3. Members of the Council of the Commission, the Chairman of the Board of the Commission and other invited persons may participate in the meetings of the Intergovernmental Council with the invitation of the Chairman of the Intergovernmental Council

The list of the participants and the format of the meetings of the Intergovernmental Council are determined by the Chairman of the Intergovernmental Council in consultation with the members of the Intergovernmental Council.

The agenda of the meetings of the Intergovernmental Council shall be formed by the the Commission on the basis of the proposals from the Member States.

The question regarding the presence of the accredited media representatives at the meetings of the Intergovernmental Council is decided by the Chairman of the Intergovernmental Council.

4. The procedure for the organization of meetings of the Intergovernmental Council shall be approved by the Intergovernmental Council.

5. Organizational, informational and logistical support to the preparation and conduct of meetings of the Intergovernmental Council is done by the Commission with the assistance of the host Member State. The meetings the Intergovernmental Council are funded from the budget of the Union.

## Article 16

### The Authorities of the Intergovernmental Council

The Intergovernmental Council shall conduct the following main authorities:

- 1) ensures the implementation and monitoring of the execution of this Treaty, international agreements within the Union and the decisions of the Supreme Council;
- 2) reviews, on the proposal of the Commission issues, on which no consensus was reached when they were decided;
- 3) gives instructions to the Commission;

- 4) presents the Supreme Council candidates for the Council and Board of the Commission;
- 5) approves the draft budget of the Union, provisions on the budget of the Eurasian Economic Union and reports on the budget performance of the Union;
- 6) approves of the regulations on the audit of the financial and economic activities of the institutions of the Eurasian Economic Union, the standards and methodology of the audit of the financial and economic activities of the institutions of the Union, decides on conducting audits on the financial and economic activities of the Union and determines the timeframe of their implementation;
- 7) reviews, on the proposal of a Member State, issues, relating to the termination or change of a decision made by the Commission or, in the cases when no consensus is reached, submits them to the Supreme Council for latter's consideration;
- 8) makes decisions to suspend the operation of the decisions made by the Council or by the Board of the Commission;
- 9) confirms the procedure for checking the authenticity and completeness of information on the income, property and property obligations of the members of the Board of the Commission, officials and employees of the Commission, as well as their family members;
- 10) exercises other authorities, defined in this Treaty and international agreements within the Union.

## Article 17

### The Decisions and Directives of the Intergovernmental Council

1. The Intergovernmental Council makes decisions and directives.
2. The decisions and directives of the Intergovernmental Council are made by consensus.

## Article 18

### The Commission

1. The Commission is a permanent governing body of the Union. The Commission consists of the Council and the Board.
2. The Commission shall make decisions, directives and recommendations.

Decisions, directives and recommendations of the Council of the Commission shall be made by consensus.

Decisions, directives and recommendations of the Board of the Commission shall be made by a qualified majority or consensus.

The Supreme Council determines the list of the sensitive issues, on which the decision of the Board of the Commission shall be made by consensus.

Wherein, the qualified majority comprises the two-third of the vote of all the members of the Board of the Commission.

3. The status, tasks, composition, functions, authorities and procedures of the Commission shall be determined in accordance with Annex № 1 hereto.

4. The seat of the Commission is Moscow, the Russian Federation.

#### Article 19

##### The Court of the Union

1. The Court of the Union is a permanent judicial body of the Union.

2. The status, composition, competence, functioning and formation of the Court of Union shall be determined by the Statute of the Court of the Eurasian Economic Union in accordance with Annex № 2 hereto.

3. The seat of the Court of the Union is Minsk, Belarus.

#### Section IV

##### THE BUDGET OF THE UNION

#### Article 20

##### The Budget of the Union

1. The financing of the activities of the institutions of the Union is funded from the budget of the Union, which is formed in the manner, determined by the Regulation on the budget of the Eurasian Economic Union.

The budget of the Union for the next fiscal year is formed in Russian rubles through equity contributions from the Member States. The size (scale) of the equity contributions from the Member States to the budget of the Union shall be established by the Supreme Council.

The budget of the Union should be balanced in revenues and expenditures.

The fiscal year begins on January 1 and ends on December 31.

2. The budget of the Union and the Regulation on the budget of the Eurasian Economic Union shall be approved by the Supreme Council.

The amendments to the budget of the Union and the Regulations on the budget of the Eurasian Economic Union shall be implemented by the Supreme Council.

## Article 21

### The Audit of the Financial and Economic Activities of the Institutions of the Union

To monitor the implementation of the budget of the Union the financial and economic activities of the Union shall be audited at least once every 2 years.

Inspections on separate issues of the financial and economic activities of the institutions of the Union can be carried out on the initiative of each of the Member States.

The auditing of the financial and economic activities of the institutions of the Union shall be performed by a group of auditors, consisting of the representatives from the state financial control bodies of the Member States.

The results of the audits of the financial and economic activities of the institutions of the Union shall be made in the determined form, under the consideration of the Intergovernmental Council.

## Article 22

### The External Audit (control)

In order to determine the effectiveness of the formation, management and disposal of the budget of the Union, the effectiveness of the use of property and other assets of the Union, external audit (control) is conducted. The external audit (control) is carried out by a team of inspectors, formed from the representatives of the supreme bodies of the state financial control offices of the Member States. The standards and the methodology of the external audit (control) are determined by the joint decisions made by the supreme bodies of state financial control offices of the Member States.

The results of the external audit (control) shall be presented in the institutions of the Union in the determined form, under the consideration of the Supreme Council.

## PART 2

### CUSTOMS UNION

#### Section V

#### COMMUNICATION AND STATISTICS

##### Article 23

##### Communication in the framework of the Union

1. In order to ensure the provision of the information on the integration processes in all the areas, affecting the functioning of the Union, measures aimed at ensuring information exchange, with the use of information and communication technologies and cross-border space of trust within the Union, shall be developed and implemented.
2. Information interaction in the implementation of common processes within the Union shall be carried out, using an integrated information system of the Union, providing the integration of the geographically distributed public information resources and information systems of the competent authorities, as well as the information resources and information systems of the Commission.
3. To ensure an effective cooperation and coordination of the public information resources and information systems, the Member States shall pursue a coordinated policy in the field of information and information technologies.
4. When using the software and hardware resources and information technologies, the Member States shall ensure the protection of the intellectual property, used or received in the course of the interaction.
5. The fundamental principles of the information exchange and coordination of its implementation within the Union, as well as the regulation of the formation and the development of an integrated information system are determined in accordance with Annex № 3 hereto.

##### Article 24

##### Official Statistic Data of the Union

1. To ensure the effective functioning and development of the Union, official statistical information of the Union shall be formed.

2. The formation of the official statistical information of the Union shall be in accordance with the following principles:

- 1) professional independence;
- 2) scientific validity and comparability;
- 3) completeness and accuracy;
- 4) relevance and timeliness;
- 5) openness and accessibility;
- 6) cost-effectiveness;
- 7) statistic privacy.

# *Social Inclusion Strategy of Labor Migrants: Comparative Analysis between Russian and Foreign Experience*

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## **Tatyana Bezborodova**

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## **Abstract**

**The paper presents an attempt for a comparative analysis of problems of integration of external labor migrants into the host society in the developed countries and modern Russia. Despite the opposite trends in the economic development of the countries of Western Europe with post-industrial economy and Russia, they have a lot in common concerning the condition of the investigated problem. First of all, it is an increasing significance in the community of migrant workers from culturally distant countries of the developing world.**

Migration processes in Russia in the past two decades have been quite controversial. Until the mid-90s a forced migration of the titular Russian groups from the former Soviet republics dominated. It was caused by outbreak of ethnic separatism, armed conflict, political instability, social and economic institutions' demolition. At the same time there was a certain cushioning impact of new factors associated with these institutional changes. Freedom of in-move and expatriation, a

significant expansion of economic freedom increased dramatically opportunities for choice. They caused the explosive growth of labor and commercial migrations, opened the door for free emigration and immigration, thereby creating the conditions for inclusion of Russia in the system of global migrations. The downside of such a freedom of movement was "brain drain", significant flows of transit migration and illegal migration in loosely controlled border conditions.

In the period of 1992-2004 6.9 million people arrived in Russia from the CIS and Baltic countries and migration increase was 4.6 million people that is significantly higher than in the previous decade.<sup>115</sup> However, if back in the mid-1990s there was a designated collapse in a scale migration exchange with the CIS and Baltic countries, which played a huge role in changing the population amount of the RF and its structure. A centripetal flow of immigrants from the CIS and Baltic countries, which had reached its apogee in the mid-1990s, declined significantly: in 2004 there were ten times less migrants than during its peak in 1994 in Russia, migration growth was 74 thousand people against 914 thousand in 1994 (Table 1)

Table 1: Migration exchange between Russia and the CIS and Baltic countries by period, 1992-2004.

	1992-2004	1992-1995	1996-2000	2001-2004
In-move, %	100,0	55,9	35,4	8,7
Expatriation, %	100,0	61,2	30,1	8,7
Migration growth, %	100,0	53,3	38,1	8,6

Source: State Statistics Committee of Russia (Rosstat).

The situation with migration in Russia and in the post-industrial countries has much in common.

First, in Russia, as well as in the post-industrial countries, the formation of modern urban family has been finished, which could not but affect the labor shortages.

Second, the continued export - raw nature of the Russian economy, which is reflected on the one hand, in the need to attract cheap labor from outward, mainly in low-tech industries with a high degree of physical labor - construction, agriculture, catering, trade and etc., on the other hand, the

<sup>115</sup>Mukomel V. I., Migracionnaja politika Rossii: Postsovetskie konteksty, Institut sociologii RAN.- M.: Dipol'-T, 2005.

increase in growth in the living standard of the indigenous population that will certainly attract migrants from poor countries.

Third, the increase in migration flows from culturally distant Asian countries. According to official data among the CIS in 2006 there were three leaders on the top - Ukraine (16.9% of migrant workers), Uzbekistan (10.4%) and Tajikistan (9.7%), and among the countries outside the former Soviet Union - China (20.8%) and Turkey (10%).<sup>116</sup> Among these countries only Ukraine can be referred to be culturally close to Russia.

Fourth, there is also a tendency in Russia to the formation of separate areas of compact settlement of the migrants based on ethnicity. For example, in Moscow, the areas densely populated with a 100,000 Chinese community are Izmailovo, Cherkizovo, Marino, Krylatskoye, Ochakovo. The community consists mainly of young men under the age of 40 years, half of which - bachelors.<sup>117</sup> Its closed character reinforces negative attitudes and distrust on the part of the local population.

Otherwise is the situation with the integration of migrant workers in the Russian economy. The main difference between workflow into Russia is the predominance of temporary labor migration. The main wave of migration took place at the mid-90s. After tightening the Russian immigration legislation, in particular, the requirements for citizenship, migration flow gradually began to dry up, reaching the level of 130-150 thousand people a year. Among the total mass of migrants into the country ethnic Russians are getting fewer and fewer but temporary labor migrants - more and more, and the most of them are not registered.

Widespread temporary labor migration, including illegal, leads to contradictory results. On the one hand, one can be less careful about the integration of temporary migrants into the Russian society. On the other hand, the position of temporary, often illegal migrants with a poor literacy in the legal norms and customs of the country increases its alienation, promotes the formation of isolated, going out of control government communities. They often serve as a breeding ground for crime and subject to arbitrary, extortion and corruption on the part of law enforcement agencies. All this aggravates the socio - psychological tension in society, creating new centers of social conflicts.

Another feature of the situation of the migrants in Russia is an extremely unproductive attitude towards their integration into the host society, both by employers and by the population and the Russian society as a whole. It is no secret that the employment of illegal foreign migrant workers allows employers to reduce production costs and maximize profits. Savings on wages, social taxes, the cost of labor protection and the creation of normal conditions make these workers more attractive to employers than workers - migrants from the poorer Russian regions. The negative consequences of this are obvious: the development of the shadow economy, the inhibition of

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<sup>116</sup>Olesin V., Budte kak doma. Vashe pravo. Migracija, № 19, 2010.

<sup>117</sup> Trudovaja migracija v Rossiju, Demoskop Weekly, elektronnaja versija bjulletenja «Naselenie i obshhestvo», <http://www.demoscope.ru>.

growth of wages, maintaining a low level of productivity, control processes, the introduction of advanced equipment and technology, saving on investment into human capital.

The majority of the indigenous population, especially lower class, is very negative towards the integration of the migrants into the Russian society. In this case, it is not so much about the competition in the labor market (as shown by numerous studies in the Russian economy there have developed specific niches in the labor market, which have been filled exclusively with foreign migrant workers: laborers in construction, sanitation workers, maintenance workers, traders in the markets), but a much deeper social phenomenon. In the absence of a post-Soviet society and social class solidarity, a serious trade union movement, the development of civil society there has flourished xenophobia, chauvinism and racism. After all, to blame disenfranchised migrants is much easier than to look for the causes in the society.

The success of the migration policy depends on a number of factors. Human society has always been dynamic. This century is no exception. Migration processes have become global. Migrants of the XXI century, as a rule, tend to change (temporarily or permanently) the usual place and home to the new, already inhabited and well-developed by the others. This feature of contemporary migration has an extremely complex problem, the solution of which influences largely a well-being of the participants of migration processes, as well as the future of the host society.

Successful migration policy in the modern civilized society aims to build such a system of relations between old-timers and newcomers, which will ensure a balance in the labor market, social services would cope with the real needs of people and different groups of people would have the opportunity and the need to coexist harmoniously.

Creating conditions for harmonious coexistence takes a long time and must be mutual. On the one hand, in the public mind there should be a rooted desire for tolerance towards people who differ from the local population with their ethno-cultural characteristics. On the other - immigrants are required to learn the language, respect the laws and the traditions and culture of the host society.

There are a number of reasons that prevent the effective integration of immigrants. Let's enumerate just a few ones. Despite the fact that the majority of foreign nationals is coming to us from the former Soviet republics, young people have mostly poor knowledge of the Russian language. Sometimes, workers have a very blurry idea of our laws and the basic rules of conduct adopted in the society. It is ignorance of the language and laws that involves certain part of foreign citizens into the brutal world of the "shadow" of migration, making them vulnerable to unscrupulous employers.

In addition, migrants face with intolerance on the part of the local population. The above mentioned reasons mean that we need a purposeful activity of state structures and institutions of a civil society in promoting integration and the development of tolerance of migrant workers into the hosting Russian society.

The analysis of foreign experience in regulating migration processes for socio-economic development shows that countries receiving foreign labor use the following regulatory instruments: presentation of the quality requirements of the labor force (a certificate of education, professional experience); the introduction of the age limit for in-move; health screening of potential migrants (pre-medical and psychological testing of foreign candidates); direct import quotas labor, reflected in the legislation sets the ratio of the number of foreign workers and the local population or other criteria; national geographic priorities, reflecting the country's exit as preferred immigrants and their invasion of the regions in the host country; special programs to attract immigrants; system of sanctions established with regard to illegal migrant workers, as well as to the people involved into illegal importation of labor and employers illegally employing migrants.

In this case, there is a common provision to all host countries. It states out that, despite existing legislation, its application depends on the fluctuations on the labor market, specialty and qualifications of a migrant, the country of his\her origin.

Mass immigration, the need for which has been demonstrated in the study leads to several problems of an economic, social, psychological nature. The studies of social adaptation allow us to classify these problems, and analyze ways of adaptation - passive, active, pathological ones. Consequently, the problem of recommendations is to negate a pathological form, to introduce some restrictions on active adaptation (when a worker changes his environment to make it best for himself) and to develop a passive adaptation to approximate assimilation.

First, one must make the following changes into the organization of the legal regulation of migration processes.

1. Simplification of procedures for registration of migrants - foreign nationals. The procedure for residence registration should be greatly simplified and reduced to such a form, that it would be easier for the migrants (potential citizens) and cheaper (for those who just arrived for work) to register their presence, than not to register.
2. Expanding the social rights and guarantees for migrants.
3. Formation of the mechanism of "citizenship on pending." The status of "pending citizenship" could primarily be provided for ethnic Russians outside of Russia, the representatives of the titular Russian groups of the Russian Federation and former Soviet citizens who have received the citizenship of the host countries, immigrants of all waves and their descendants.
4. The use of "force majeure citizenship." It is necessary to guarantee those people who were forced to renounce Russian citizenship by "force majeure" circumstances threatening their existence an immediate (rather than in 3 years under the Law on Citizenship) restoration of citizenship in an extremely lightweight (best - declarative) form either when they move into Russia, or at the place

of residence in the consular department of the Embassy of the Russian Federation, as well as to extend this procedure to their close relatives.

5. Legalization of a work migrant - a foreign citizen, strengthening employers' liability for illegal use of migrant labor. To provide foreign nationals legally arrived in the Russian Federation and the registered place of residence with the right to work, but only as an employee. To obtain a work permit there can be used a guaranty mechanism. That is, instead of 1.5-2 months of waiting (as an unemployed illegal) for a work permit a migrant is to pay a certain amount (for example, the average income tax for 1-12 month period depending on the duration of work), and he will be allowed to work, and then, on submission of documents, such as invoice, he will get a refund. An employer would also have the right to make a deposit for a desired employee and, such a mechanism is much easier and cheaper for an employer than an existing one.

And as far as an immigrant is legalized, the mechanism and its verification through the Interior Ministry will also be simplified.

The procedure of its extension to the desired period of time (about one year) can also be simplified. If the mortgage amount is to be left in the local budget, then employers, local authorities and the bodies of internal affairs will be interested in a simplified work permit procedure.

6. Creation of hotels, hostels or centers for a temporary stay. In our opinion, the construction of hotels, hostels or centers for a temporary stay can be considered to be a solution to the problem of migrant housing. This option should help migrants to settle at least in the early days of their stay on the territory of the Russian Federation and to accelerate the process of their social adaptation into the Russian environment.

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# *Human Development Indicators as a Criterion for Organizational and Economic Efficiency in Innovation Management in Russia*

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## **Abstract**

**The paper attempts to explain the global progress, local variability and lack of systematic linkages between economic growth and progress in other dimensions of human development, emphasizing the importance of ideas and technologies dissemination. Money matters, but the facts clearly show that you can achieve great success in other aspects of human development without any acceleration of economic growth. Variety of ways and results is rooted in the diversity of market structures and the ways they interact with states and institutions, with a significant role played by the comprehensive nature of the political system.**

**Basic principles of the human development concept are not to constantly provide needy populations and countries with humanitarian aid, but to stimulate the development of these people, to enhance their participation in public life, to empower lifestyle choices and making decisions affecting their lives, simultaneously strengthening their responsibility for the decision made and for their implementation.**

**Keywords:** *human, human potential, the theory of human potential, human development concept.*

Reproduction of human potential is becoming a major component of development models closely associated with the indices of human progress and considering many qualitative variables (various components of the social services, living conditions improvement, human productive forces) that

determine ultimately the ability of economic systems to the scientific, technological and social innovation. Thus, on the one hand, these figures characterize the human role in the socio-economic development and on the other hand they enable us to consider a person as a criterion for economic development. The most common and affordable way to assess the factors of economic growth is the development of complex social indicators, structural and value judgment. It is also about the possibility of transformation of these variables into the controlling and controllable parameters of social development.

It is also characteristic of human development indices used by UN. This approach differs not only from the traditional analysis in the theory of economic growth, but also from human capital theory where people are studied primarily as a means of socio-economic development. In the new models a person becomes the goal of the development. Analysis from the perspective of human development integrates production and distribution methods with an approach that determines the possibility of expansion and use of human potential. In this approach, human development is seen as a dynamic process. In such a multifactor system traditional economic indicators act as a form of social indicators.

Considering the issue from a purely economic point of view, we can say that human reproduction as labor force becomes more and more expensive. The advance of effect growth over the costs of the human factor is considerably higher than over real material conditions of production. This is one of the main features of the post-industrial economy based on knowledge. Obviously, when assessing the efficiency of the economy and the organization, particularly in terms of its impact on the human potential we should consider all the components. The indicators of human dimension of the economy effectiveness include indicators characterizing demographic processes, the state of health and level of education (human development index), the state of culture and morality; indicators of life quality and degree of implementation of the social justice principle. Organizational and economic efficiency is associated with its stability, understood as the development, not only generates economic growth but also to fairly distribute the results and increase opportunities for people.<sup>118</sup>

There is a correlation between HDI and empowerment, inequality and sustainability, using indicators of political freedom and reduce the HDI due to inequality as well as an indicator of sustainability. Except inequality, the picture is not unambiguous. There is no statistically significant relationship between the stability and the HDI. Democracy on average positively correlates with HDI, but the variation of this ratio is much higher than in the case of inequality. The lack of correlation can be seen in the large number of countries that have a high HDI, but failed with other variables. These simple correlations are only a rough reflection of much more complex reality. For example, there is a broad discussion about the connections between democracy and socio-economic development and the role of equality in the development. It is

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<sup>118</sup> Abalkin L.I., Barysheva A.V., Burmistrova T.V., et al., Gumanisticheskie orientiry Rossii, In-t ekonomiki RAN, Korporacija "Televik", M., 2002, 389 s., diagr. (Vyzovy novogo veka i strateg.otvet Rossii), s. 12.

reasonable to assume that there is a positive relationship between them, and below we offer a valid proof of it. But we cannot be sure that the increase in the HDI will be accompanied by positive shifts in the broader dimensions of human development, or that these changes will lead to an increase in the HDI.

In 1990 the public understanding of development problems was galvanized by the appearance of the first "Human Development Report". Headed by the visionary Mahbub ul Haq, this research had profoundly affected the way policy-makers, government officials, the media as well as economists and other social scientists assess the social progress. The report did not focus on the few traditional indicators of economic progress (such as gross national product per capita), but offered a systematic study of the vast reservoir of information about people's life in various societies and the substantive freedoms they enjoy.

However, the problem of replacing simple digital information like GNP with a huge number of tables (and multiple analysis results) is that the latter lacks the practicality and convenience of GNP. Therefore, in contrast to GNP another simple indicator - Human Development Index (HDI) - which focuses only on lifespan, basic education and minimal income was introduced. Not surprisingly the HDI which has become very popular in the public debate has "roughness" comparable to the GNP. Rough HDI met expectations: it works as a simple indicator like GNP but unlike GNP it is not confined only to the income and commodities. At the same time, the huge breadth of human development concept should not be confused, as is sometimes done, with the narrow limits of the HDI. In the steady flow of "Human Development Reports" new tables continue to appear and new indexes designed to enhance the HDI and enrich our evaluations are being developed.

The concept of human development is constantly topical in comprehending of our changing world and in the search for ways to improve human welfare. Human development is not a fixed and static set of requirements but an evolving idea since the world changes are followed by the changes in analytical tools and concepts. Addressing these issues requires new techniques three indicators of the whole family of Human Development Report indicators - inequality-adjusted Human Development Index, index of gender inequality and multidimensional poverty index are the most advanced today. They have incorporated the latest advances in theory and practice of measurement and confirm the central role of inequality and poverty in the human development. These experimental data series are given with the intent to stimulate reasoned public debate beyond the traditional orientation to the indicators summary. The idea that the concept should be dynamic and not frozen remains unchanged in the tradition of human development. "Human development is the inclusion into human freedoms rights of people for a long, healthy and creative life, for the enjoyment of other goals, which, in their opinion, have value, for active participation in providing

justice and sustainable development on a shared planet. People - both individually and in groups - are both beneficiaries and the driving force of human development."<sup>119</sup>

Research results based on new data and analysis confirm two main controversial points: that human development is different from economic growth and that significant advances can be achieved even without rapid growth. These achievements were made possible because growth is separated from the processes that determine the progress in human development not related to income.

One important aspect is how the relationship between markets and states is organized. Governments in various ways address the issue of tension between the desire of markets to profit and dynamism and the need to overcome market failures. Markets can be necessary to ensure sustainable economic dynamism, but they do not automatically bring progress in other dimensions of human development. Development that makes too much emphasis on rapid economic growth is seldom sustainable. In short, the market economy is necessary but not sufficient.

These observations date back to the brilliant characterization formulated by Karl Polany more than 60 years ago concerning the myth of the self-regulating market - the idea that markets can exist in a political and institutional vacuum. Usually markets do extremely poor job with the performance of public tasks - such as security, stability, health and education. For example, firms manufacturing cheap labor-intensive goods or exploiting natural resources often do not feel the need for more skilled workers and may pay little attention to their health, if there is a surplus of labor in the labor market. Human development is not just about health, education and income, it also includes active participation in the formation of development, justice and stability - integral aspects of freedom that allows people to live the kind of life they have reason to value. There is less unanimity on the question of what constitutes progress in these aspects, the indicators are also often lacking. However, lack of quantitative evaluation is not a reason to disregard quantitative indicators or ignore them. Even if countries are making increasing HDI, they are not necessarily as successful in the broader dimensions. A country can have a high HDI and be unsustainable, undemocratic and unjust, likewise another country can have a low HDI and be a relatively stable, democratic and just state. These schemes generate serious problems in relation to what we think of human development, its indices and strategies of gradual improvement of results and processes.

There is no simple communication scheme of the HDI with other dimensions of human development, such as empowerment and sustainability. The exception is the inequality which is inversely proportional to the HDI, but even that relationship has many variations. The lack of correlation can be found in many countries with high HDI and low results for other variables: a quarter of countries has high HDI but low sustainability; similar, though less clear picture can be observed in the area of political freedoms. However, perhaps the greatest challenge to preserve

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<sup>119</sup>Bobyleva S.N. red., Doklad o razvitii chelovecheskogo potencijala v Rossijskoj Federacii za 2010 god, OOO «Dizajn-proekt «Samolet», 2010, 152 s., 23 tabl., 59 ris., 19 vstavok.

human progress is created by unsustainable patterns of production and consumption. To make human development truly sustainable, it is necessary to break the close relationship between economic growth and greenhouse gas emissions.

Expanding the boundaries of estimates has always been the cornerstone of human development. However, measurement for the sake of measurement has never been an end in itself. HDR has opened new opportunities to comprehend progress putting forward a simple but compelling idea that development is much more than a simple revenue growth. Over the years the HDR has been introducing new indicators to assess progress in reducing poverty and extending the women's rights. The main obstacle here is lack of reliable data.

Human Development Index has been a strategic element of the new concept. It represents a shift in thinking, even if it does not fully cover the richness of human development. As a consolidated tool to measure health, education and income the HDI assesses their levels and their progress using a broader concept of development than that based solely on income. And, as it happens with any aggregate measuring instrument and international comparisons, it simplifies and covers only a part of things included in human development.

New directions of researches on development recognize that the results of reforms vary depending on the circumstances, and that appropriate strategies should be identified and developed at the local level.<sup>120</sup> As an example of this approach we shall consider the features of the index methodology for measuring human development applied to the subjects of the Russian Federation.<sup>121</sup> HDI is composed of three equivalent components:

- income, determined by gross domestic product (gross regional product) in purchasing power parity (PPP) in U.S. dollars;
- education, determined by literacy rates (with a weight of 2/3) and the proportion of students among children and youth aged 6 to 23 years old (with a weight of 1/3);
- longevity, determined by life expectancy at birth (life expectancy).

For each of the partial indices there are fixed minimum and maximum values:

- life expectancy at birth of 25 and 85 years;
- adult literacy rate: 0% and 100%;

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<sup>120</sup> Sigov I.I., Kriterij effektivnosti nacional'noj (regional'noj) ekonomiki – blagosostojanie naselenija, Ekonomika i upravlenie, № 3 (29), 2007, s. 22-24.

<sup>121</sup> Ashmarin I.I., Ustojchivoe chelovecheskoe razvitie: razmyshlenija o ponjatii, materialy Vserossijskoj nauchnoj konferencii "Chelovecheskij potencial Rossii i ego intellektual'naja sostavljajushhaja", Institut cheloveka RAN, oktjabr 2000.

- total enrollment among children and youth: 0% and 100%;
- real GDP per capita (PPP): \$100 and \$ 40,000.

The income index is calculated somewhat differently, it uses the decimal logarithm of real per capita income in accordance with the principle of diminishing utility of income.

Final Human Development Index (HDI) is calculated as the sum of the arithmetic average of three components: longevity index, education index (consisting of literacy index with a weight of 2/3 and enrollment index with a weight of 1/3) and the income index. When calculating the income index for the subjects of the Russian Federation additional procedures are introduced:

- updating (proportional increase) of gross regional product (GRP) of each subject of the Russian Federation on the undistributed portion of the country's GDP;
- GRP updating for difference in prices by multiplying it by the ratio of the average living wage to the subsistence minimum in the region;
- translation into U.S. dollars at purchasing power parity (PPP) for this year.

In calculating the index of education the level of literacy is determined in 99.5% of the population. Enrollment is calculated as the ratio of the number of students of educational institutions of all types (schools, primary, secondary and higher vocational education institutions) to the population aged 6-23 years. Values of the human development index can vary from 0 to 1. Value 0.800 is the lowest limit of the developed countries level.

The private sector is vital for human development. New conceptual vision of the role of the private sector in the development has recently emerged within development institutions that have recognized the role of markets in expanding opportunities and choices for poor people and households as producers, consumers and employees. Described by many as the development of inclusive market, the private sector development is meant for the poor, and the creation of markets work for the poor; the basic principle in this process is inclusion. According to the Economic Development Ministry forecast, the growth in real disposable money income in the long term is caused by increase in real wages, personal incomes from entrepreneurial activity, the accelerated development of the pension and social security, increase in social support for low-income groups of population. During the period of 2011-2020 real disposable income will grow by almost 2.6 times according to the innovation scenario and almost 2 times at the inertial scenario.

Table 1 - The dynamics of income and consumption, %.

	2010	2015	2020
	forecast		
Real disposable income	147,0	207,0	286,0
Real wages	168,2	259,3	384,7
Real labor pension	154,4	267,7	437,7
Retail trade turnover	166,7	239,5	327,2
Paid services	131,6	176,0	234,7

Annual growth in real wages in 2011-2020 will be 7, 6-9, 7% and it will rise in comparison with 2007 by 3.3 times in the overall economy by 2020. Implementation of innovative scenario will give a boost to the higher wage growth in high-tech and knowledge-intensive activities.

Scenarios assume different hypotheses concerning the pension provision. Innovation scenario provides increase of ratio between the average level of pensions and the average wage to 30% in 2020, which will require an increase in the volume of federal transfers to the Pension Fund of the Russian Federation, or alternative ways to increase the income of the pension system.

Social protection of the population will develop in the direction of expansion and improvement of the effectiveness of regional targeted programs for the poor, which will withdraw working families with children and households of pensioners from the poor sector.

Within the innovation scenario as a result of monetary incomes increase and structural shifts the proportion and number of people with incomes below the subsistence minimum will tend to decrease. During the first five-year period (2006-2010) it will decrease from 15.2% in 2006 to 10.4% in 2010. At the end of the next five years (2010-2015) it will be up to 7.8% and will involve approximately 11.1 million people. By 2020, poverty will be reduced to 6.2% (8.9 million people). Over the entire period from 2006 to 2020 the number and proportion of people with incomes below the subsistence level may be reduced by more than two times. Significant changes in the long term may occur in the structure of the poor. Given the substantial increase in wages of public sector employees, their share of the poor population will considerably decline. Concurrently with a reduction of the poor is projected the decrease in the group of low income citizens with incomes

below two subsistence minimums from 45% (64.1 million people) in 2006 to 21.3% (30.7 million people) by 2020.

These social changes are not only the result but also the prerequisite for a new quality economic growth, since they imply the formation of higher quality human capital, productivity growth and development of the service economy. Development of the labor market in the long term will be formed under the influence of the growing labor shortages due to the decrease in the working age population, as well as the imbalance between demand and supply of labor from the professional and territorial points of view.

Having determined the quality of human potential and having identified the factors influencing it, we can formulate principles of effective programs that will change the current negative trends in the social sphere and noticeably improve the quality of people's lives. We should formulate some general but important provisions to be considered when developing such programs. Summarizing, we emphasize the importance of comprehensive monitoring of the processes related to changes in the particular components of human potential. It allows to timely track emerging issues, to identify ways out of the crisis so that the society do not pass the dangerous point of no return. Considering Russia's development strategy the state of the population and quality of life characteristics should be regarded as the main criterion for all decisions of the federal and regional authorities.

Opportunities to increase employment among the population of Russia in the long run are extremely limited. The women employment rate is one of the highest in the world and can fall under the influence of measures to stimulate fertility.

The main feature of the innovation scenario is connected with the intensive restructuring of employment and production in the high-tech sector. Its share in GDP will increase from 10.6% in 2007 to 18.6% in 2020; the share in total employment in these sectors will increase accordingly, from 7.3% in 2007 to 11.9%.

Table 2 - Structure of the employed in five large groups of economic activities in 2006-2020, %.

	2006	2007	2010	2015	2020	2002 to 2006
Total in the economy	100	100	100	100	100	-
Including:	10,8	10,2	9,2	7,5	5,7	53

Agriculture, forestry, fishing and hunting						
Industry	21,2	21,4	21,2	19,6	17	80,2
Construction	7,6	7,7	6,7	7,7	9,6	126,3
Trade, hotels and restaurants, transport and communication	26,8	27	28,1	29,9	32,1	119,8
Financial services, real estate transactions, renting and services	33,7	33,8	34,9	35,3	35,7	105,9

Productivity. Currently, in the production of value added per employee Russia lags behind the U.S. by 5.9 times, behind the G7 countries («Big Seven») - by 5.2 times, and behind Japan - by 4.3 times. In the production per one hour, the gap is even higher - 6.1 times with the U.S., with the G7 countries - 5,4 times.

Recently the wage fund grows by 28 percent or more per year, and its share in GDP increased to 44.8% (2007). The rapid growth of the average wage is accompanied by its increased differentiation in economic activities. In the financial sector and the extraction of fuel and energy minerals average monthly salary exceeds the average for the economy as a factor of 2.5. In agriculture and light industry average wage is 50% of the average in the economy. Under the current structure of wages according to the employment trade, agriculture, transport and communications, construction, as well as mechanical engineering, food industry and metallurgy are leading. Disparities in wages lead to a redistribution of the shrinking workforce in high-yield sectors, contribute to a shortage of professionals and skilled workers in most manufacturing industries, which is a constraint to processing industries, diversification and increase of production efficiency. According to forecasts by 2020 with the innovative scenarios productivity is projected to increase by more than 2.5 times.

Table 3 - Growth in labor productivity (in the added value), %.

Type of business	2010/2007	2015/2007	2020/2007
A. Agriculture, hunting and forestry	113	170	260

B. Fishing, fish farming	110	140	175
C. Mining and quarrying	109	132	160
D. Manufacturing	126	195	302
E. Production and distribution of electricity, gas and water	116	145	181
F. Construction	150	228	353
G. Wholesale and retail trade; repair of motor vehicles, motorcycles, personal and household goods	137	200	299
H. Hotels and restaurants	113	148	197
I. Transport and communications	114	153	217
K. Real estate, renting and services business	128	199	310

Modernization of education in accordance with the requirements of innovative development is characterized by significant structural changes in the financing of the education sector and the quality of services provided. Increased spending on education to 6-7% of GDP, including budget expenditures - to 5-5.5% of GDP is based on the following assumptions:

- The growth of the payroll budget of the teaching staff of educational institutions from 1.82% of GDP in 2008 to 3.05% in 2020;
- Increase in spending on basic research in universities to 0.08% of GDP in 2016-2020;
- increased spending on the establishment and functioning of the leading universities, including spending on science from 0.1% of GDP in 2008 to 0.18% of GDP in 2020.

Table 4 - Major budget allocations on education (% of GDP)

	2008	2012	2016	2020
Current education funding				
- payroll budget expenditures in educational institutions	1,82	2,22	2,62	2,8–3,1
- effective contract -	-	0,26	0,48	0,66
-other expenditures including capital construction	2,26	2,43	2,36	2,35
Leading universities - in addition	-	0,10	0,12	0,18
Fundamental research in universities	-	0,08	0,08	0,08
Total	4,08	4,83	5,18	5,5-5,7

Payroll budget share in budget expenditures on education in 2008-2020 is projected at 45-56%. This wage increase is necessary for the effective return on investment in education infrastructure. To improve the quality of educational services, infrastructure investment should be also accompanied by adequate

Domestic investment - both private and public - is crucial. Few countries have made significant progress solely by foreign investment and development assistance. Mobilizing domestic investment and entrepreneurship involves the creation of a favorable climate with the mechanism protecting the rights of owners. The studies in this field display the variety of successful approaches. Some countries rely more on strategic transactions between the business elite and the government, and not on the overall institutional or legislative reforms. Financing of the internal public investment requires sufficient budget revenues with their collection mechanism being fair and transparent.

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# *On the Murder of Boris Nemtsov in Moscow: A Triptych*

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## **George Katznelson**

*Katznelson holds an MA from Moscow State Linguistics University. Many an exposé of his aired across U.S. in various arts communities. He is originally from Moscow, Russia, currently based in New York City, USA.*

*EUFAJ thought, at a time when songs celebrating Putin are performed, a poem on Nemtsov does not harm.*

\*\*\*

**“He’s murdered. What’s the use**

**of weeping?”\*/**

In broad daylight, before the gates

of Kremlin

Long since synonymous with crime and

injustice,

Brought down by the cowardly bullets

of drive-by

Shooters. Just one day before a march

by opposition

Movement he’d been the vanguard of and would

have headed

Protesting his country’s current path

of war and

Deprivation. Called **SPRING**, the march

is now scrapped  
And doomed, the SPRING itself put presently  
on hold, with  
Many outside the Kremlin walls in mourning, when  
those inside  
Seen pay lip service to their arch-foe and wash away  
the blood from  
Red Square's cobblestones...

---

*\*/ from "On The Death Of A Poet", written by M. Lermontov on the murder of Russia's greatest poet Pushkin*

\*\*\*

**Killed on the eve of Spring in front of**

Kremlin's walls,  
His life abridged a few steps from the stairs  
climbing on  
To *Bolshoi Moskvoretsky Bridge*, believing "Spring",  
the march he'd lead,  
Indeed will be the bridge from Winter's freeze  
to Spring, just  
One day away.\*/  
... Killed on the doorstep of his mother's birthday  
and buried  
The same day that she turned eighty eight,

attending

The burial of her son, doing his mother's

level best

To hold back the tears --.

---

*\*/ Boris Nemtsov was gunned down on Great Moskvoretsky Bridge on February 27, with spring in Russia officially starting March 1*

\*\*\*

**Shall I compare peacock tails with the whodunit**

**murder tales** displayed

O'er Moscow, albeit the tails are far more beautiful

and solely natural,

Meant to attract, while tales are spread in order to **distract**,

so people might get stuck

In 'versions', each one more stupid than the other,

the 'footprints' leading further away

From Kremlin's backdrop and the smoking guns on *Bolshoi*?

...Spin doctors churning out whodunit stories 24/7, only

the more are spread

The less they are believed, so fewer buying 'versions'

with compelling questions

Born by this slew of lies. And more and more, they're being

borne back to square one. This time,

However, the square being **Red Square One** --.

### **Oliver Costa & Nathalie Brack: How the EU Really Works**

*Ashgate, Surrey, England, 2014, 264 pages, € 29,90, ISBN-978-1-4724-4429-5*

The triggers, evolution and development of the European integration is a complex of agreements, disagreements as well as compromises on different aspects and spheres by its member states. The European Union has practiced profound changes and transformations, growing into the world's largest internal market and the biggest platform for Foreign Direct Investments. Since its inception the Union has been promoting democracy, respect for human rights and rule of law, peace and security, innovation, free trade, social and economic sustainability both inside and beyond its territories. Yet, the Union constantly faces internal external challenges and also does not lack criticism and disapprovals.

As such, much has been said about its characteristics and scope, with it mostly being identified as a *suis generis* phenomenon. It is not a federal state with its members remaining independent sovereign states. On the other hand, nor is it an international intergovernmental organization, since the member states have indeed pooled certain degree of sovereignty. They undertake and implement joint decisions and actions via common institutions such as the European Parliament, directly elected by the EU citizens, as well as through the European Council and the Council, both of which represent nation states of the Union. These institutions make decisions on the basis of the proposals that the European Commission comes forwards with – the body that represents the EU as a whole.

With the existence of the multiple various bodies, institutions and agencies within the Union, there rises a set of questions on how each of them works and performs in practice, how they cooperate and deal with each other, who is liable for what and to what extent they are authorized to take this or that decision. In line with these, the book “How the EU Really Works” can serve as a first-class guide in looking inside the EU and understanding its dynamics and pulse.

The authors of the book are Olivier Costa and Nathalie Brack is CNRS Research Professor at the Institute of Political Studies of Bordeaux (France) and is also Director of Political and Administrative Studies at the College of Europe (Bruges, Belgium) as well as is Visiting Professor at the Institute for European Studies of the Université Libre de Bruxelles (Brussels, Belgium). The co-author, Nathalie Brack is a Post-doctoral Fellow at Oxford University and at the Université libre de Bruxelles (CEVIPOL). In the book “How the EU Really Works”, in a clear but meanwhile in a pragmatic manner, they present and discuss the European integration history and process, its

legislation as well as institutions, engaged in the Union's policy and strategy makings. Moreover, it talks about the crisis and challenges that the Union faces, presents the power, legislative, institutional, as well as border changes the Union has undergone. It acknowledges the complicated relationship between the Union and its citizens as well as its consequences in implementing reforms. The book also discusses the nature of the EU, its legitimacy in the global arena, as well as situation in the face of the economic and financial crises.

Thus, the aims to shed light on the European project as such, its development, institutions, their day-to-day interactions and policy-makings on. With its concise structure, systematic and logical development, inferential conclusions, the study is a valuable attainment both for preliminary and empirical purposes. It provides an easy analysis of the complex processes and operations realized by the Union within and beyond its borders. The book is not only is informative, educational and awareness-raising but it is also provoking since it opens up new aspects and questions to study and observe regarding the EU's set-up and its future framework.

*Ofelya Sargsyan*

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