



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

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Current political impasse and possible solutions according to the Constitution

The political situation that has developed since the general parliamentary elections in 2017 has resulted in ongoing uncertainty and has given rise to various interpretations of the Constitution which have left the public confused. This situation has had a major impact on the functioning of State institutions in various sectors, and the National Parliament in particular.

These circumstances have resulted in the National Parliament failing to approve the rectification budget that adjusts the 2017 general budget to ensure that administration can be implemented effectively and to resolve debts left over from the previous Government.

Also, the new Government cannot continue to properly implement State administration because there is no State budget. According to constitutional practice, the Government can only present the State budget when the Government program has been approved by the National Parliament.

The first program was presented by the Government and rejected on 19 October 2017 in the National Parliament, and until now the Government has not yet presented its second program to the National Parliament in accordance with the requirements of the Constitution.

During this period JSMP has observed that State organs have not been functioning properly, and the National Parliament in particular has not been functioning in accordance with the Parliamentary Rules of Procedure (Law No. 15/2009 and amended by Law No. 1/2016) and often no serious discussions about national interests have taken place. The only thing that has occurred in the National Parliament is just political debate about party politics and party interests.

The most popular discussions in the National Parliament have been regarding a motion to reject the program of the VII Constitutional Government, a motion to reject the Rectification Budget, the presentation of a motion of no confidence, a request to remove the President of the National Parliament. There have been no plenary sessions and regular meetings of the Permanent Committees since the beginning of the 2018 financial year, and there have also been demands for the current Prime Minister and President of the National Parliament to resign. JSMP considers that the most serious issue is that for more than sixty (60) days or three (3) months the National Parliament has failed to discuss and approve the State Budget for the 2018 financial year.

"Normally in politics such circumstances can occur, but JSMP believes that in the national interest the best path is to seek a solution that can resolve this political impasse with the contributions of all parties,

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and the President in particular, who can exercise his competence in accordance with the Constitution and use his wisdom solve this situation", said the Executive Director of JSMP, Luis de Oliveira Sampaio.

Actually in such circumstances, based on Article 86 (f) of the Constitution, the President has the competence to listen to the parties that have seats in the parliament and with the Council of State, can dissolve the National Parliament.

The rationale is that it has been more than ninety days since the members of parliament were sworn in for the IV Legislature on 5 September 2017 and the situation in the National Parliament is not allowing the National Parliament to discuss and approve the 2018 State Budget.

*“f) To dissolve the National Parliament in case of a serious institutional crisis **preventing ... the approval of the State Budget and lasting more than sixty days**, after consultation with political parties sitting in the Parliament and with the Council of State, **on pain of rendering the dissolution null and void**, taking into consideration **provisions of Section 100.** “*

In this context the President does not need to wait for more than six (6) months to dissolve the Parliament according to the provisions of Article 100 of the Constitution, because this situation can be categorised as a serious institutional crisis.

Article 86 (f) of the Constitution states that there are two requirements in order to consider that State institutions are experiencing a serious institutional crisis:

1. There is no formation of the government, or
2. If the National Parliament does not approve the State Budget.

In relation to these two requirements, if one exists the President can decide to dissolve the National Parliament and explore possible options to end the political impasse in the National Parliament. These two requirements do not apply cumulatively and the President can make a decision if one of the two requirements is met.

In fact, a Government has been formed, which is categorised as a minority Government, but until now the National Parliament has not managed to debate and approve the State Budget in accordance with Article 86 (f) of the Constitution. Pursuant to this article the National Parliament has sixty (60) days to approve the State Budget. This limitation is intended to prevent a protracted political crisis which will impact on the functioning of the State because there is no budget.

We have all observed that sixty (60) days has passed but the Parliament has not approved the Government program and therefore the Government cannot present the 2018 State Budget to the National Parliament. This delay has had a huge and serious impact on the functioning of the State and this process has not adhered to the Constitution.

Based on this reality JSMP recommends for the President to use his constitutional competence and wisdom and intelligence to make a fair decision, to avoid us entering into a vicious circle that we will never get out of.

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