



Press Release
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National Parliament

Dissolution of Parliament and Early Elections must adhere to Constitutional requirements and norms

Dissolution of Parliament and Early Elections must adhere to Constitutional requirements and norms as set out in the Constitution.

Currently candidates who are competing in the Presidential Election for the 2022-2027 period have started to nominate themselves and register their candidacies with the Court of Appeal to legally compete in elections on 19 March 2022.

These candidates have also started making statements to the public about their commitments if they are elected as the President of the Republic. JSMP has observed that some of these political commitments have touched on issues that could have a major impact or disadvantage on the State if they eventuate. These issues are the “dissolution” of the National Parliament, “early elections” and “legality of the structure of the Chair of the National Parliament”. On one hand JSMP also believes that the candidates have some reasons or basis in relation to these issues. However, it is important to adhere to the norms enshrined in the Constitution.

JSMP believes that the role and fundamental competence of the President of the Republic is set out in the provisions of paragraph 1) of Article 74 of the Timor-Leste Constitution, namely that the President of the Republic is the Head of State and the symbol and guarantor of national independence and unity of the State and of the smooth functioning of democratic institutions.

“JSMP believes that political commitments must guarantee adherence to these norms and principles and need to be exercised prudently to enable careful consideration and extra care regarding the potential impact of these political commitments in the interests of the State and the nation”, said the Executive Director of JSMP, Ana Paula Marçal.

Although there are concerns about the legality of the leadership of the Chair of the National Parliament, however JSMP has observed that the Presidency of the current Chair of the National Parliament has produced a number of important laws and made political decisions in relation to the interests of the State and the nation. These important laws have included laws relating to the State Budget, Law on Measures to Prevent and Combat Corruption, Law on Judicial Organization, Law on Local Power and Administrative Decentralization, Law on Municipal Assembly Elections, Law on Arbitration, Law on the State of Emergency, resolutions and laws that have been

initiated and presented to the National Parliament for a long time and on many occasions they have expired.

JSMP has observed that the Law on Measures to Prevent and Combat Corruption was a collective product of the National Parliament which involved the active participation of all parliamentary benches, both the opposition and the benches supporting the Government in the National Parliament. The approval and promulgation of the Law on Measures to Prevent and Combat Corruption reflects the strong desire of all political parties in the National Parliament.

Experiences from many nations show that to prevent and combat corruption there needs to be political stability so that institutions that are given a mandate can exercise these functions and competencies effectively. If there is no political stability, the commitment to combat corruption can continue to be an abstract dream. Therefore the dissolution of the National Parliament is not a secure political option in the main interests of the State and will continue to promote ongoing hatred and political revenge in the future.

JSMP believes that the exercise and commitment of dissolving the National Parliament will have political implications and will set a negative precedent for the future and such a dissolution will have implications for the legislative products previously decided on by the current National Parliament such as the Laws on the State Budget for 2020, 2021 and 2022. If the presidency is considered illegal and unconstitutional it will have an impact on all decisions and legislative products that were made in the plenary, and who is going to take responsibility, the President of the Republic or the National Parliament or the Government? These questions provide a means and reference point to carefully, thoroughly and prudently consider the political commitments of the President of the Republic before they are implemented.

Also, the dissolution of the National Parliament must also reflect the requirements set out in the provisions of Article 86 f) of the Timor-Leste Constitution that states that *to dissolve the National Parliament, in a case of a serious institutional crisis preventing the formation of a government or 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**.

* Article 100 on Dissolution: (1) The National Parliament shall not be dissolved during the 6 months immediately following its election, during the last half-year of the term of office of the President of the Republic or during a state of siege or a state of emergency, on pain of rendering the act of dissolution null and void. (2) The dissolution of the National Parliament does not affect the continuance in office of its Members until the first meeting of the National Parliament after the ensuing election.

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These constitutional provisions state that the President of the Republic can dissolve the National Parliament based on three main points (3) namely 1) a serious institutional crisis preventing the formation of Government; 2) non-approval of the State Budget lasting more than sixty days and 3) after consultation with the political parties sitting in the Parliament and with the Council of State. This means that when the President of the Republic makes a decision to dissolve the National Parliament without consulting the political parties sitting in the Parliament and the Council of State, this decision will not have any legal effect or validity. This would give rise to the circumstances set out in the provisions of Article 100.

JSMP has observed that the current reality is that the National Parliament has functioned well in the performance of its work as set out in the Timor-Leste Constitution, namely it is vested with legislative, supervisory and political decision making powers as set out in the provisions of Article 92 of the Timor-Leste Constitution. In terms of functioning and productivity, JSMP has observed that the National Parliament has functioned better and more productively in comparison with previous legislatures and legislative sessions. According to the schedule, the parliamentary elections will be held next year, therefore there is no fundamental reason to justify the dissolution of the parliament and early elections, as well as a new election of the presidency of the Chair of the Parliament.

in relation to the issue of the legality of the current presidency and structure of the National Parliament, MPs from the opposition benches requested an abstract review of the constitutionality of the Supreme Court of Justice in accordance with the provisions of Article 150 e) of the Timor-Leste Constitution to check the legality of legislative acts or diplomas produced by the National Parliament and published in the State Gazette and in relation to the process of dismissal and election of the President of the Parliament and the structure in accordance with the provisions of Article 126.1 b) of the Timor-Leste Constitution. When the Court conducts a check and finds that this legislative diploma does not comply with the Law on the Parliamentary Rules of Procedure, this process can be deemed illegal based on the provisions of Article 126.1 a) of the Timor-Leste Constitution.

Even so, JSMP believes that it is not necessary now to take this action because the parliamentary elections will take place in a years' time and there are no major problems that could justify this action. Therefore, based on the national interests of the people and the nation, it is recommended for all parties, especially the 2022 President-Elect to

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continue contributing towards ensuring the normal functioning of democratic institutions of the State, especially the National Parliament until the parliamentary elections in 2023.

JSMP believes that it is important for the President-Elect in 2022 to continue contributing towards ensuring national unity and the normal functioning of democratic institutions in the future, therefore, also to ensure that the entire process and all decisions, both political and legislative, abide by the law and the Constitution.

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