

## Comment & Letters

# Delicate interregnum period



**Kevin Aquilina**

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**W**hen Parliament is dissolved and a general election is called, the country's governance is substantially changed during this interregnum. To a certain extent, the country comes to a standstill.

Ministers and parliamentary secretaries abandon their offices to take it to the streets. They knock on our doors pleading, in all humility, for the favour of our vote. Files in their offices continue to amass with very little action being taken. Indeed, we would be living under a caretaker Government where no major policies are adopted.

Ministers and parliamentary secretaries have more other pressing matters on their mind: their re-election to the House of Representatives.

During this period, there is no Parliament in session. Standing and Select Committees of the House cease to meet.

Malta is governed by only two organs of the State: the Executive and the Judiciary. But during the interregnum, the Government cannot exercise all the powers it performs when Parliament is in session. Hence, it is a reduced

power-wielding Government. In the interregnum, the Government lingers on as a caretaker Government. Indeed, the Principal Permanent Secretary issues instructions once the date of the general election is announced where no new appointments, recruitments, promotions and other action concerning public officers and public sector employees can take place.

It is the proper period to avail oneself of electoral leave in terms of the Public Service Management Code. Where public officers decide to candidate themselves for election, they are granted electoral leave. If elected they can resign their appointment with the government, remain on unpaid leave or return to their duties as public officers.

Although there is no Parliament in session during the interregnum, it is still possible for the public administration to make subsidiary legislation in terms of the Interpretation Act, even though this has to be done with circumspection.

Insofar as broadcasting is concerned, the Broadcasting Authority exercises a tighter grip over the output of all broadcasting stations – radio and television – nationwide and at a community level.

New directives are issued to regulate broadcasting during the campaign period and all programme schedules of all broadcasters have to be approved by the regulator together with any proposed changes to those schedules. Complaints are no longer addressed to the broadcasting stations concerned but go directly to the regulator. During this period, more particular emphasis is placed on impartiality and balance. Other types of programming are momentarily put aside

and not monitored for breach of regulations related to advertising, teleshopping, protection of vulnerable persons, etc.

A scheme of general elections broadcasts is approved by the regulator following consultation with political parties apportioning air time on the public service broadcasters' TVM and Radio Malta, whereby, normally, political parties are allotted time for political spots, party productions, debates and press conferences. Chairpersons for these programmes and, in the case of press conferences, journalists have to be selected by the Broadcasting Authority in a short time span.

The law regulates the media more closely in the silence period, the two days of reflection: on polling day and the day immediately preceding it.

The Electoral Commission is in full swing. After the President's writ is published dissolving Parliament and after the date of the general election is announced, the Electoral Commission has to select assistant commissioners,

receive nominations from electoral candidates, print the ballot papers for all districts, ensure that all voting documents are distributed, liaise with the police and the armed forces on security, be present in the counting hall to ensure that the counting process is moving swiftly, liaise with political parties with regard to the distribution of votes and the attendance of party representatives throughout the whole electoral process, etc.

It is undoubtedly a very busy moment for the Electoral Commission, which comes to an end after the official result of the general election is presented to the President of Malta and published in The Malta Government Gazette.

This time round there are also local council elections being held.

Apart from the case of a public emergency, during the interregnum, motions and Bills in the House of Representatives lapse, except those related to judicial impeachment and there is no possibility to subject a subsidiary law to parliamentary scrutiny and to supervise the workings of Government closely as is done when Parliament is in session.

Again, although prudence dictates that the caretaker Government should not make controversial subsidiary legislation during the interregnum, the Opposition is left with no method of remedy during this period, especially if it cannot take the subsidiary law in question to court for the problem might not be a legal one but a political one.

In the interregnum, a number of things happen that are not normal when there Parliament is in session. For instance, the doctrine of collective ministerial responsibility as set out in the

Constitution loses all its currency because ministers are no longer responsible to Parliament, now dissolved.

Whatever happens in the interregnum, Parliament cannot be convened except in the case of an emergency understood in the sense of war, a state of public emergency or threatened subversion of democratic institutions.

It could also be the case that before the electoral result is officially published the Government resigns as it knows that it has lost the election and there is no Government in office in those few hours before the official publication of the result takes place, leaving the country leaderless with the President not much in a position to do anything about it.

This is indeed not an ideal situation to have from a good governance point of view and the constitutional provisions in this respect should be seriously revisited.

Certain extraordinary measures are taken, involving the Armed Forces of Malta and the police force, to ensure that public order is maintained, especially to protect certain areas and, following the announcement of the electoral result, that no reprisals are carried out by the supporters of the winning party on the property of the defeated political party and other property, including billboards, in the streets.

The prudence principle, a key accounting concept, should guide the public administration (public service and public sector) during the interregnum to ensure that no measure is taken by the public administration that is interpreted by the Opposition to be going beyond what a caretaker Government should do in this delicate period of a democracy's lifetime.

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