

Public accounts scrutiny



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Parliamentary democracy is based on very simple notions: A legislature is elected by the people in free elections; the president or monarch appoints the person able to command a majority in Parliament as prime minister. In turn, the prime minister chooses the Cabinet, the executive, answerable in the last resort to the people in elections, and to Parliament in the intermediate period between elections.

Members of Parliament are representatives of the people. Unconditioned and unconditional loyalty to their party does not impede or preclude them from voicing the concerns of their constituents, or the fundamentals of democracy, both within the internal party structures as well as in other fora such as Parliament

itself, civil society and the media, depending on the issue.

When the Delimara power station extension was debated in Parliament last May, I criticised certain aspects of the procedure in line with the Auditor General's findings. The Auditor General is an officer of the House, and he commands the respect of all.

I participated in the debate, and took the opportunity to make a number of environmental recommendations, including accelerating the infrastructure for gas and opting for the cleanest fuel. People living not only in Marsaxlokk or Żurriq but also in Żejtun and Marsascala are directly affected by the power station: it is an issue that concerns the south of the island and beyond.

People in the area also complain of the inconvenience caused by the heavy industrialisation, while obviously appreciating and understanding their economic relevance to the country.

That debate gave Parliament the opportunity to scrutinise the government, a main function of a healthy legislature, controlling and overseeing the administration, besides enacting laws and being the highest and most representative forum of discussion. The debate came at a time when the process, started even before I was elected to Parliament, was in its final stages, and thus one had to calibrate various factors, including not only environmental issues, but also the issue of energy security, and commitments regarding the decommissioning of the Marsa power station.

The government has expressed its firm commitment to remedy the identified administrative shortcomings; no corruption or trading in influence was found.

Once again it must be stressed that the area needs a heavy injection of environmental projects and a further upgrading of the infrastructure to compensate for the

deficit caused by progressive industrialisation.

I had the opportunity to be present at the opening of the upgraded Sant' Antnin recycling plant, which is a huge improvement on the earlier plant whilst respecting and enhancing the environment. The interconnector with Sicily and the switch to alternative energy sources are good steps in the right direction.

The Public Accounts Committee (PAC) is another mechanism by which Parliament scrutinises the executive. It is not geared to criminal investigations – God forbid that it were. In normal cases, even where the committee finds shortcomings, these are usually of an administrative nature. Otherwise, in exceptional situations, the Commissioner of Police would intervene with further investigations.

From the start, I voiced my opinion that the discussion should be held, and that witnesses should be allowed to testify before the PAC

in the power station extension contract issue in the best interests of transparency and accountability and to clarify any remaining pending issues. But I also stressed that this was to take place only after the Auditor General has finished his testimony.

Business before the PAC must be conducted in a manner befitting the dignity of Parliament, and keeping in mind the role of the committee itself, namely the scrutiny of government expenditure. As the Prime Minister has said, Parliament and the Public Accounts Committee should not be morphed into a police corps or a people's tribunal.

Respecting the dignity of Parliament also means conducting the coming debate in the correct manner and in full respect of our constitutional provisions.

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The Rent Board: no practical reforms



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The Rent Regulation Board (RRB) is the special judicial body set up under Chapter 69 of the Laws of Malta.

Prior to the Rent Law Reform (Act X of 2009), competence was generally vested in the ordinary courts. The RRB was considered a special tribunal and its competence was conferred by way of exception. The Board used to pronounce itself only on issues relating to urban tenements, in disputes between the lessor and the tenant. Going concerns and agricultural leases were excluded from the applicability of such term. A lessor who wanted to request permission for non-renewal of the lease, had to go before the RRB, whereas in the case of leases entered into after 1 June 1995, the lessor had to go before the ordinary courts. In the case of going concerns, the lessor who wanted to sue for the termination of the lease had to go before the ordinary courts.

With the enactment of Act X of 2009 all such cases will be referred exclusively to the RRB. The ordinary courts will remain competent to decide those cases where the tenant never had a valid title of lease. In terms of the new jurisdiction clause, those cases which, prior to and on 1 January 2010, were still pending before other courts and not the RRB, will continue in the courts before which they were filed.

New powers

Act X of 2009 gave the RRB new powers. The two most important are:

Special summary procedure

The introduction of special summary proceedings, (known as "*il-procedura tal-giljottina*") in respect of claims for the eviction of an occupier from the premises and for a declaration that payment of rent is due. This procedure only applies where there is a money claim and a demand for eviction. The intention of the legislator is to expedite proceedings before the Board in clear-cut cases where the prolongation of such cases is of no use and is only to the detriment of the plaintiff.

Collection of information and data

The RRB has the authority to request information and documentation from government entities, departments and authorities as well as from any other entity to meet its functions. This provision is in derogation of the Data Protection Act, since it empowers



the Board to search information and data in connection with any case before it. The intention of the legislator is that of expediting proceedings and collecting evidence relevant to the case before the Board in the interests of the best administration of justice.

Practical reforms

Seeing *in persona* how the amendments are put into practice, one cannot but criticise the present administration for failing to implement concrete and practical reforms in the way the Board functions. On paper, there is no doubt that Act X of 2009 was a step forward, since it gave the Board new powers and competences that strengthened it. In practice, however, there have been few changes in the way the Board has functioned since June 2009. The Board does not seem to be using the power it has to search information and data in connection with cases before it, due to the fact that the proper resources were not allocated by the pre-

sent administration. Therefore the proactive role envisaged by the legislator is not being implemented in practice.

This active role of the Board was also intended to make the gathering of evidence quicker and more comprehensive. However, since cases have continued to be heard and determined in the manner in which they were before the amendments, no difference has been seen with regard to the length of the proceedings. Cases are still taking a long time to be determined, with only one magistrate assigned to preside over all the cases before the RRB. There is no doubt that the present magistrate is doing his best to tackle the backlog and expedite the hearing of new cases. However, it is not enough.

This definitely deters any owner from making his property available for rent. A reform that has to be introduced as soon as possible is that the composition of the Board should include more than one mag-

istrate. In my opinion, there should be at least three magistrates, and more resources should be allocated to the Board in order that it can tackle the backlog and then keep up with the new workload – thus being able to deliver judgements more efficiently and speedily.

Following the implementation of the above, I would strongly recommend that through a further legal amendment, a time frame of one year be introduced within which a case before the Board is to be concluded. This will instil trust in the system on the part of owners, who will be much more willing to put their properties on the market.

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