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**ELECTION OBSERVATION DELEGATION TO
THE PARLIAMENTARY ELECTIONS
IN SRI LANKA
(17 August 2015)**

**Report by
Ignazio CORRAO, Chair of the Delegation**

Annexes:
A- List of participants and programme
B- Preliminary findings and conclusions
C- Press release

INTRODUCTION

On 9 July 2015, the Conference of Presidents of the European Parliament authorised the sending of an Election Observation Delegation to observe parliamentary elections in Sri Lanka, scheduled for 17 August 2015 and aimed at renewing the composition of the Parliament of the Democratic Socialist Republic of Sri Lanka.

The European Parliament Election Observation Delegation was composed of six Members: Mr. Joachim ZELLER, (EPP, Germany), Mrs. Claudia SCHMIDT (EPP, Austria), Mr. David MARTIN (S&D, United Kingdom), Mrs. Neena GILL (S&D, United Kingdom), Mr. Doru FRUNZULICA (S&D, Romania) and Mr. Ignazio CORRAO (EFDD, Italy), who was appointed Chair of the Delegation at its constitutive meeting on 14 August.

The EP Delegation conducted its activities in Sri Lanka between 14 and 19 August 2015. In line with common practice it was associated with the EU EOM which had been present in Sri Lanka from 15 July 2015 and was led by Mr Cristian Dan PREDA (EPP, Romania). The EOM was supported by a core team of seven analysts and 18 long term observers. For election day, the EU EOM was reinforced by 28 short-term observers from 24 Member States, as well as Switzerland and Norway, and 22 locally recruited observers from EU embassies. Other international observer missions present in Sri Lanka included the Commonwealth, the Forum of Election Management Bodies of South Asia (FEMBoSA) and high numbers of civil society / citizen observers (CMEV and PAFFREL in particular).

The EP Delegation fully endorsed the findings of the EU EOM and underlined that these have been the most peaceful elections in Sri Lanka in a long time. The Delegation welcomed the high turnout and the peaceful environment throughout the country. The overall evaluation is that these elections were very well organised. The Delegation called upon the newly elected Members of Parliament to seize the opportunity for a complete reconciliation in Sri Lanka and looked to strengthening cooperation between the two Parliaments.

The Delegation wishes to express its thanks to the Chief Observer, Mr Cristian Dan PREDA, for his excellent cooperation both before and during the mission. It also thanks the Head of the EU Delegation, H.E. Mr David DALY, his colleagues and the core team for their support.

Members of the EP Delegation respected the Code of Conduct for Members of the European Parliament Election Observation Delegations, in accordance with the decision of the Conference of Presidents of 10 December 2009.

BACKGROUND

After Maithripala Sirisena's surprise presidential victory against the incumbent President, Mahinda Rajapaksa on 8 January 2015, the stage had been set for a change in the governance of Sri Lanka. Sirisena ran on a platform of good governance against corruption, nepotism and the centralisation of power by the ruling elites unlike Rajapaksa who ran the country in an increasingly autocratic manner. On the day of the presidential election, 8 January 2015, voter turnout was at an impressive 81 %. Against all odds, Sirisena won 51.28 % of the vote compared to Rajapaksa's 47.58 %. The following day, Sirisena (who never resigned from the SLFP, Rajapaksa's party) formed an interim coalition government and appointed Ranil Wickremesinghe from the United National Party (UNP) as his Prime Minister. The UNP had backed Sirisena in exchange for the post of prime minister for Ranil Wickremesinghe in case of victory.

The last parliamentary elections were held on 8 April 2010. They were the first to be held after the end of the 26 year armed conflict in May 2009. For decades, the politics of the country has been dominated by the Sri Lanka Freedom Party (SLFP) and the United National Party (UNP). Since the two biggest parties were unable to constitute parliamentary majorities, the political climate was that of coalition politics. The two main coalitions were the United People's Freedom Alliance (UPFA) (144 seats), dominated by the SLFP and the United National Front (UNF) (60 seats) led by the UNP and the Sri Lankan Muslim Congress. Smaller coalitions were the Tamil National Alliance (14 seats) and the National Democratic Alliance (seven seats).

On 27 June, the President announced that parliamentary elections would be held on 17 August, ten months ahead of schedule. The campaign started right away, and closed 48 hours before the election. The elections were advanced because of the government's difficulty to pass reforms. As promised during his campaign, President Maithripala Sirisena's government tried to launch economic and political reforms but having no majority in parliament, the scope for transformation remained limited. In light of the difficulties faced to pass the 19th amendment (an amendment to the constitution curtailing some presidential powers and restoring independence to the public services commissions was passed in April 2015), it became quickly evident that the 20th amendment (on the electoral reform), would not pass: there was important opposition including that from parties supporting President Sirisena. Indeed, the electoral reform aimed at establishing a First-Past-The-Post (FPTP) system but smaller parties in the ruling coalition feared being disadvantaged and preferred to keep the proportional system.

Former President, Mahinda Rajapaksa, decided to run in these parliamentary elections, clearly stating his intention to become the next prime minister. The political parties and the civil society organisations that had allied to end the Rajapaksa rule in the January 2015 presidential elections were deeply unhappy. Sirisena drew heavy criticism for having been unable to prevent the nomination of Rajapaksa inside the SLFP, which demonstrates that the Rajapaksa-led faction remains powerful in the party. On 14 July 2015, Sirisena delivered a strong speech where he explained why he was forced to give the UPFA nomination to Rajapaksa. He also stated that he would stay neutral in the campaign and would not provide any support to Rajapaksa or the UPFA during these elections. He even declared that even if the UPFA won, he would not offer the post of Prime Minister to Mahinda Rajapaksa. Constitutionally, the President alone has the power to appoint the Prime Minister.¹

¹ Adapted from EP Publication, Directorate-general for external policies , Policy department: *In-depth analysis: Parliamentary elections will determine the fate of the rule of law in Sri Lanka*

PROGRAMME OF THE DELEGATION

Prior to the day of the election, the Delegation met in Colombo with political parties, NGOs and diplomatic missions, and familiarised itself with the legal institutions of Sri Lanka and the local political climate. The European Parliament Delegation also had separate high level meetings with Maithripala SIRISENA, President of Sri Lanka and with Prime Minister Ranil WICKREMESINGHE. Chief Observer, Mr Cristian Dan PREDA accompanied the Delegation to these meetings.

In addition, the Delegation availed itself of strong assistance from the EU Delegation in Sri Lanka, represented by the Head of Delegation, Ambassador David DALY and by the Head of the political sector, Mrs Terhi LEHTINEN. In the framework of the EU EOM, the Delegation cooperated closely with the core team, led by the Deputy Chief Observer, Mr Konrad OLSZEWSKI. The British, German and Italian Ambassadors/High Commissioner in Colombo were also very helpful in briefing the Delegation.

Meetings were held with representatives of the leading political parties which included the United National Party (UNP), the United Freedom People's Alliance (UPFA) and the People's Liberation Front of Sri Lanka (JVP).

The Delegation also met the main civil society organisations: Centre for Monitoring Election Violence, Transparency International of Sri Lanka, PAFFREL, Campaign for Free and Fair Elections as well as a representative of the Human Rights Commission.

On Election Day, the Delegation split into three groups and observed in various polling stations, from the opening at 07.00 to the closure of activities at 16.00 and the subsequent counting of the votes. The polling stations observed were in the centre of Colombo, in the wider Colombo area, including the rural areas of Ratnapura and Kegalle, in Kandy and the northern area of Jaffna.

On 19 August 2015, a joint Press Conference was held by the Chief Observer, Mr Cristian Dan PREDA and by the Head of the EP Delegation, Mr Ignazio CORRAO. A Statement of Preliminary Findings and Conclusions was released and is attached to this report.

ASSESSMENT OF THE ELECTORAL PROCESS

The Delegation was impressed by the peaceful atmosphere which prevailed on Election Day. To a large extent, the public perception was that these were the most peaceful elections in Sri Lanka in a long time.

Improvements were made to the electoral procedures prior to the elections, in particular on identification checks and on the centralisation of voter registration.

The Delegation took note of the fact that the register from 2014 was used for these elections and therefore regretted the exclusion of around 300,000 people who turned 18 in the intervening period. The Delegation equally regretted the low presence of female candidates according to international standards and recommended that efforts are made so that more female candidates are nominated and elected next time.

On Election Day, the Delegation witnessed very well organised and peaceful voting procedures. The layout in polling stations was adequate for the voting procedure and the Delegation appreciated the division of labour among the different officers. The presence of domestic observers (PAFFREL and CMEV) in almost all polling station visited by the Delegation contributed to the transparency of the process.

However, before Election Day there were last minute hurdles that had to be overcome for the Chief Electoral Commissioner to allow the locally recruited observers from EU embassies to participate in the observation process.

Some minor concerns were expressed on the following issues:

- overly restrictive campaigning rules
- some bias towards certain parties by TV channels, including public broadcasters
- the management of the electoral process was effective though very centralised, with major decisions left to the discretion of one office-holder;
- a number of polling stations were not easily accessible for people with reduced mobility;
- the layout in some polling stations did not protect the secrecy of the vote;
- in a number of polling stations the ink applied with a marker to a fingernail was not visible enough (on this point a person complained to the Delegation);
- there were too few female presiding officers;
- political parties present in the polling stations were enabled to take note of the name of people who voted, not least thanks to the clerks reading out the names loud and clearly to that effect

The Delegation assessed very positively the vote counting, even though some counting stations were overcrowded with very poor working conditions. Counting was well-organised and faster than expected. Contrary to previous occasions, domestic observers were allowed to be present at the counting.

The Delegation was surprised by the fact that, although at the exit of polling stations voters expressed their full understanding of voting procedures, the number of invalid votes was quite high (from 6 to 9 per cent in some districts).

RESULTS AND POLITICAL CONTEXT

The Delegation appreciated that, shortly after voting closed, former President Rajapaksa conceded defeat.

A few days later, on 21 August, Ranil Wickremesinghe, leader of UNP and outgoing PM, was once again sworn in as Prime Minister. The Sri Lanka Freedom Party (SLFP) and the UNP have already signed a Memorandum of Understanding on forming a national unity government for two years.

Of the 225 seats in the new Parliament, 106 seats will go to the UNP, 95 to the United People's Freedom Alliance (including SLFP), 16 to the Tamil National Alliance (TNA), only 6 to the People's Liberation Front (JVP) and 1 each for the Sri Lanka Muslim Congress and the Eelam People's Democratic Party.

Out of 29 seats allocated through national party lists, 13 were won by the governing UNP-led coalition, 12 by the UPFA, two by TNA and two by the JVP. All four parties awarded some of these mandates to candidates who lost elections in their districts, a move that was strongly criticised by representatives of domestic observer organisations. While this was not illegal, such a decision was widely perceived as unethical.

President Sirisena, who is also leader of the SLFP - the same party of defeated former president Rajapaksa - has allowed SLFP members to choose if they want to join the government or stay in opposition.

The fact that the leader of the Tamil National Alliance (TNA), Mr. Sampanthan has recently been appointed "Leader of the Opposition in Parliament" is considered by the EP Delegation an historical turning point towards a full reconciliation.

CONCLUSIONS AND RECOMMENDATIONS

It is important to note that, while the EP Delegation endorsed the Preliminary statement released by the EU Election Observation Mission, in the Press conference held the day after the elections, the Delegation had the opportunity to further develop its judgements, stressing in particular some political points:

- welcomed the high turnout and the peaceful environment throughout the country;
- congratulated the authorities for the well organised elections;
- asked the new Parliament to seize the opportunity for a complete reconciliation in Sri Lanka;
- encouraged the new Parliament to adopt a new electoral law that will set the framework for the electoral commission, with more checks and balances;
- recommended that efforts are made so that more female candidates are nominated and elected next time.

EUROPEAN PARLIAMENT
ELECTION OBSERVATION DELEGATION
PARLIAMENTARY ELECTIONS IN SRI LANKA
17 AUGUST 2015

List of participants

Members

Mr Ignazio CORRAO, Italy, EFDD (Chair of the delegation)

Ms Claudia SCHMIDT, Austria, EPP

Mr Joachim ZELLER, Germany, EPP

Mr David MARTIN, UK, S&D

Ms Neena GILL, UK, S&D

Mr Doru-Claudian FRUNZULIC , Romania, S&D

Secretariat

Ms Cristina CASTAGNOLI, Administrator, DG EXPO

Mr Julien CRAMPES, Administrator, DG EXPO

Ms Helen COLLINS, Assistant, DG EXPO

Final Programme

FRIDAY 14

12:00 Constituent meeting Galadari Hotel

followed by

Discussion with Konrad Olszewski DCO;
H.E. David Daly, EU Ambassador; and
Terhi Lehtinen, Head of Politics, EUDEL.

16:00 Meeting with President Sirisena Ministry of Foreign Affairs

19:00 Dinner hosted by H.E. David Daly
EU Ambassador Tintagel Restaurant

SATURDAY 15

09:00 Human Rights Commission Orchid Salon, Galadari Hotel

10:00 EU Ambassadors in Colombo Orchid Salon

11:30 Meeting with the Prime Minister,
Mr Ranil Wickremesinghe Temple Trees

13:15 Lunch with Civil Society Reps Kinnaree Restaurant

16:00 UNP Orchid Salon

17:00 UPFA Orchid Salon

19:00 JVP Orchid Salon

20:00 Dinner hosted by Mr Cristian Preda The Gallery Cafe

SUNDAY 16

09:00 Welcome by Konrad Olszewski DCO Orchid Salon

09:15 Political overview,
Marian Gabriel, Political analyst Orchid Salon

10:00 Media Environment
Mary Boland, Media Analyst Orchid Salon

10:15 Legislative Framework
Merce Castells Vicente, Legal Analyst Orchid Salon

10:30 Election Administration, E-Day
Procedures, Dimitra Ioannou,
Election Analyst Orchid Salon

11:45 Security Briefing, Pedro Guerra
Security Expert Orchid Salon

12:30 Mr Joachim Zeller and Mr Crampes depart for Jaffna
13:00 Mr David Martin and Ms Neena Gill depart for Kandy

MONDAY - ELECTION DAY 17 AUGUST

04:15 Mr Doru Frunzulica and Ms Collins depart for Kandy
06:00 Mr Ignazio Corrao, Ms Claudia Schmidt and Ms Castagnoli
depart Galadari hotel to observe in Colombo area

TUESDAY 18

09:30 Internal meeting of EP Delegation Galadari Hotel
10:30-18:30 Departure for Galle to observe count

WEDNESDAY 19

10:30 Press conference Galadari Hotel

END OF MISSION



EUROPEAN UNION ELECTION OBSERVATION MISSION

17 August 2015 Parliamentary Elections Democratic Socialist Republic of Sri Lanka

PRELIMINARY STATEMENT

Genuine and well-administered elections with restrictive campaign rules

Colombo, 19 August 2015

SUMMARY

- The 17 August parliamentary elections in Sri Lanka were well administered and offered voters a genuine choice from among a broad range of political alternatives. Election Day was peaceful despite some minor incidents. Polling and counting procedures were assessed overwhelmingly positively by EU observers.
- The Commissioner of Elections and his staff administered the elections in a transparent and impartial manner, demonstrated strong leadership, and enjoyed the confidence of all stakeholders. In addition to issuing circulars and guidelines throughout the campaign, the Commissioner had exceptionally broad powers to instruct any state institution, including media and the police. The wide interpretation of these powers, including that the Commissioner may order state outlets to halt broadcasts, challenged recently gained media freedoms. Violation of these directives constituted an offence punishable with fines and even imprisonment. At times, such decisions were vague and impracticable and were issued on an ad-hoc basis.
- Candidate registration was inclusive. In total, 35 political parties and alliances as well as over 200 independent groups submitted their lists in 22 electoral districts; more than 6,000 candidates stood.
- Freedoms of assembly and movement were respected during the campaign. Despite overly restrictive rules which curbed freedom of campaigning, *inter alia*, not allowing candidates to engage in door-to-door campaigning, to canvass in person or distribute leaflets or posters, candidates and party activists campaigned vigorously, focusing on small meetings with voters. Although the campaign was assessed by stakeholders as largely peaceful, incidents involving firearms resulted in several deaths, and there were numerous cases of assault and arson. The major incidents, however, appeared to be isolated and did not lead to an escalation of violence. There were also isolated reports of limitations to campaign freedom in the Northern province.
- Party and campaign finance are not regulated; there are no requirements regarding campaign spending limits or disclosure of donations and expenditures. According to interlocutors, the campaign was very costly with some candidates spending above EUR 500,000.
- The legal framework overall provides an adequate basis for the conduct of democratic elections. However, a number of specific issues need to be reviewed to bring it fully in line with international standards and commitments agreed to by Sri Lanka. These include undue restrictions to suffrage rights, the absence of deadlines to adjudicate pre-election day complaints, and disproportional sanctions for some election offences.

- There are no legal barriers to the participation of women in elections as candidates or as voters. However, in the absence of affirmative action measures, the participation of women was extremely low – only 9 per cent of candidates were women.
- Over 15 million voters were registered of a total population of approximately 21 million. The register from 2014 was used. As a result, citizens who turned 18 in the interim (estimated 300,000) were disenfranchised. Most interlocutors raised no concerns regarding the reliability and inclusiveness of the voter register.
- The constitutional guarantee of freedom of expression was respected during the campaign. Journalists welcomed the freer media environment in which they now work. State media outlets provided a platform for various political parties. While preliminary results from the EU Election Observation Mission (EOM) media monitoring indicate state TV channels gave preferential treatment to the main ruling party, the accommodation of a plurality of viewpoints and the move towards balanced coverage are to be welcomed. Ownership and/or management of several private broadcast and print outlets is politicised, leading to coverage favouring particular candidates and parties, thus undermining the principles of balance and impartiality.
- Despite the lack of legal provisions regarding domestic observation, civil society organisations carried out large-scale monitoring of misuse of public resources, campaign violations, voter education programmes and polling and counting observation, and deployed some 20,000 observers on Election Day.

This Statement is made prior to the completion of the election process. The mission's overall assessment will be affected by the observation of the remaining phases of the process, including the tabulation of results and the handling of possible election complaints and appeals.

On the invitation of the Commissioner of Elections of Sri Lanka, on 15 July the European Union deployed an Election Observation Mission (EU EOM) to observe the parliamentary elections. The mission is headed by Mr Cristian Preda, Member of the European Parliament (Romania), and comprises 85 observers —from 28 EU member states, as well as from Switzerland and Norway—, including a delegation of 6 members of European Parliament headed by Mr Ignazio Corrao (Italy).

The mission's mandate is to conduct a comprehensive analysis and assess the extent to which the election process complies with international and regional commitments for democratic elections as well as with domestic law. The mission is independent in its findings and conclusions and operates in accordance with the Declaration of Principles for International Election Observation. Observers have been deployed across the country to all nine provinces and have met with election officials, candidates, political parties, media representatives, domestic observers and voters. On Election Day, observers visited 366 polling stations in all 22 districts to observe voting and counting. The EU EOM will remain in the country to observe post-election developments and the tabulation of results, and will publish a final report, containing detailed recommendations, within two months of the conclusion of the electoral process.

The EU EOM wishes to express its appreciation for the cooperation and assistance it received during the course of its work from the citizens of Sri Lanka, the Government and the Commissioner of Elections and his office, the political parties and civil society organisations, the EU Delegation in Colombo, and Missions of the EU Member States.

PRELIMINARY FINDINGS AND CONCLUSIONS

Background

Sri Lankan politics have in recent decades been dominated by the competition between the Sri Lanka Freedom Party (SLFP) and the United National Party (UNP). The victory of Mr Sirisena ended the 10-year rule of President Rajapaksa, marking a significant transition in Sri Lankan politics while also giving rise to an extremely complex political scene.

President Sirisena became Chairman of the SLFP and leader of the United People's Freedom Alliance (UPFA), which is led by the SLFP. However, he asked the leader of the UNP, Ranil Wickramasinghe, to form a government. A minority government was formed comprising UNP members and allies as well as some representatives of the UPFA. In April, the parliament approved the 19th Amendment to the Constitution, introducing changes to the political system which narrowed the powers of the president. A few months later, the minority government was challenged by the strong UPFA parliamentary faction still backing Mr Rajapaksa. Fearing a no-confidence motion against the government, President Sirisena dissolved parliament on 26 June and called early elections. The UPFA entered the campaign divided between members supporting Mr Rajapaksa and Mr Sirisena.

Electoral System and Legal Framework

The parliament consists of one chamber with 225 members elected for a five-year term. Of these members, 196 are elected through a proportional representation open-list system in 22 multi-member districts where voters cast preference votes for up to three candidates. The remaining 29 seats are allocated among national party lists in proportion to their share of votes gained country-wide. The parties are free to allocate these mandates either to candidates from their national lists or to any candidate running in a district, and they are not bound by any order of candidates or by the number of votes cast for a particular candidate. As a result, voters cannot anticipate which candidates are likely to win as a result of their vote, which limits the transparency of the system and the right of voters to make an informed choice.

The legal framework provides an adequate basis for the conduct of democratic elections. Fundamental rights and freedoms of assembly, association, expression and movement are constitutionally guaranteed, and the basic aspects of the electoral process including voter, party and candidate registration, election administration, campaign rules, electoral offences and petitions are regulated in statutory laws. The legal framework is supplemented by decisions of the Commissioner of Elections (*see Election Administration*).

However, there are a number of legal deficiencies. Undue restrictions to suffrage rights such as the blanket denial for people with criminal convictions and the withdrawal of candidate rights for holders of double citizenship contradict international standards.¹ Party and

¹ See Articles 25 and 26 of the ICCPR. The UN Human Rights Committee, in a case related to Sri Lanka, concluded that the prohibition on the right to be elected or to vote for a period of seven years

campaign finance are not regulated. There are no deadlines to adjudicate pre-Election Day complaints, which could compromise a timely and effective remedy. Campaign rules are overly restrictive. There are no legal provisions for domestic and international observers, and the sanctions for some electoral offences appear disproportionate, such as the suspension of the right to vote and stand for up to seven years for impersonation.

Election Administration

The parliamentary elections were administered by the Commissioner of Elections, appointed by the President in 2011, and supported by the Department of Elections. The Commissioner appointed Deputy/Assistant Commissioners and Returning Officers in charge of organising the elections in all 22 electoral districts. The Commissioner and his staff administered the elections in a transparent and impartial manner, enjoying the broad support and trust of stakeholders. The election administration at district level was perceived as impartial, competent and well organised. Technical preparations were accomplished within the foreseen operational and legal deadlines.

The Commissioner played a central role not only in co-ordinating the administrative preparations but also in regulating the campaign environment and overseeing media coverage. As such, the Commissioner demonstrated strong leadership and control of all aspects of the electoral process, which was appreciated by most stakeholders including candidates and civil society representatives. The Commissioner's presence in the media and firm instructions to the police to implement the election law contributed to the impartiality and integrity of the process. The Commissioner also maintained regular contacts with representatives of political parties/ independent groups, civil society, media and the police.

On the other hand, the decisions of the Commissioner were at times vague and impracticable, and not always consistent with provisions contained in statutory laws.² The Constitution mandates the Commissioner to "secure the enforcement to all laws relating to the holding of any election". The Commissioner is given the authority to instruct any state institution and official, including the police, during elections. The violation of such directives constitutes an offence punishable with up to three years' imprisonment. These directives consisted of binding regulations including directions on the misuse of state assets, guidelines for the media, and a wide number of decisions issued on an ad-hoc basis throughout the campaign. The absence of codified procedures paved the way for unilateral decisions to be made by the Commissioner. This, combined with the lack of consistency in publishing such decisions, led to confusion and an overreliance by candidates and voters on media reports for information, which compromised the principles of accessibility, legal certainty and clarity.

after conviction and completion of sentence, are unreasonable and thus amount to a violation of article 25(b) of the ICCPR. *CCPR/C/93/D/1373/2005, Dissanayake v. Sri Lanka*.

² For example, the Commissioner banned campaign taking place after 8pm, threatened to impose sanctions to candidates who failed to submit declaration of assets before Election Day even if the law provides a period of three months, and warned that he would order police to arrest candidates who did not return state cars.

Postal voting took place on 3, 5, 6 and 8 August for 566,823 voters – members of the security forces/police and government employees. There were 9,322 postal voting polling stations established across the country. Some 10 per cent of postal voting applications were rejected due to missing or incorrect data. EU EOM observers who followed the postal voting process in 105 postal voting polling stations assessed positively the implementation of procedures, which was conducted in a calm and orderly manner in the presence of political party representatives and domestic observers. However, proper safeguards were lacking to ensure the secrecy of the postal vote as the serial number of the ballot paper was recorded in several places, such as on the declaration of identity and the envelope where the marked ballot paper was inserted. Further, the ballot paper's serial number is printed on the counterfoil where the voter registration number was recorded during the issuance of the ballot paper. Thus, in theory it is possible to trace a ballot marked by a voter. A secret vote is the key integrity safety measure as it allows voters to cast their ballot with full independence.³

Voter Registration

Sri Lanka has an active voter registration system. The registration of voters begins annually on 1 June. While the voter registration for 2015 started in each district on 1 June, it could not be completed before the 17 August parliamentary elections, thus the voter register from 2014 was used (as in the last presidential election in January 2015). The registration system foresees no revision period before an election, thus an estimated 300,000 citizens who turned 18 in the interim were disenfranchised.⁴ The number of registered voters was 15,044,490 (51 per cent women), of the total population of approximately 21 million.

Since 2007 the voter register has been centrally computerised and reportedly the majority of duplicates have been removed. Most interlocutors raised no concerns regarding the reliability and inclusiveness of the register, and the exclusion from it of people who turned 18 in the intervening period did not raise much controversy.

Registration of Candidates

Candidate registration was conducted in an inclusive manner, offering voters a genuine choice from among a broad spectrum of political alternatives. In total, 3,653 party candidates and 2,498 independent candidates contested the elections. A total of 35 political parties and alliances and over 200 independent groups submitted their lists within the prescribed period to the Commissioner of Elections. Only four political parties/coalitions – the United People's Freedom Alliance, the United National Party, the People's Liberation Front (JVP) and the

³ Article 25 (b) of ICCPR states: ... *to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors*, and General Comment 25 of the UN Human Rights Commission: ...*States should take measures to guarantee the requirement of the secrecy of the vote during elections, including absentee voting, where such a system exists.*

⁴ The General Comment of article 25 of the UN Human Rights Committee: *States must take effective measures to ensure that all persons entitled to vote are able to exercise that right.*

Frontline Socialist Party – submitted their lists in all 22 electoral districts. Of 312 lists of candidates submitted by political parties in all electoral districts, 12 were rejected, and of 225 lists of independent candidate groups, 24 were rejected. The rejections were attributed mainly to technical errors such as incomplete documentation or missing signatures.

Participation of Women

Sri Lanka has signed key international instruments for equality between women and men, and the principles of equality and non-discrimination are constitutionally protected. There are no legal barriers for the participation of women in elections as candidates or as voters, but the legal framework contains no affirmative action measures. Cultural gender stereotypes, socio-economic considerations, and the culture of violence prevalent in previous elections are the main hindrances to women's participation in public life. The absence of any campaign finance rules, resulting in high campaign spending from candidates' own resources, was also cited by women's groups as a barrier to their participation in elections.

Women made up 51 per cent of the electorate. The main parties adopted a gender policy in their manifestos, including the promotion of women's development and social welfare. However, women represented only 9 per cent of candidates. Women were also underrepresented at senior and middle election administration management. One additional commissioner and a low number of senior presiding officers were women. In contrast, representation of women at less senior levels was higher; most of the polling assistants were women. Women were also actively involved in election monitoring, comprising more than half of domestic observer groups.

Electoral Campaign

The campaign environment was positively assessed by most stakeholders as well as by EU EOM observers. A vibrant campaign was conducted, with activities organised mainly by candidates of the UNP, UPFA and to a lesser extent by the JVP. The Tamil National Alliance was most visible in the Northern province. Candidates and their activists mainly focused on small-scale meetings with voters, the distribution and display of campaign materials and door-to-door canvassing.⁵ Political parties represented in the previous parliament organised a high number of rallies across the country.

Few barriers to free campaigning were reported. In the Northern province, domestic observer groups made several reports, confirmed by the EU EOM, of violent incidents perpetrated by supporters of the All Ceylon Muslim Congress, a member of the UNP-led coalition (Mannar district), against competitors. There were also several reports of intimidation and obstruction of campaign activities at Kayts Island, part of the Jaffna electoral district.

⁵ Up to 25 party/candidate agents are allowed to conduct door-to-door campaign.

The electoral law provisions on campaigning are overly restrictive and thus not fully in line with international standards as they unduly limit the freedom of campaigning.⁶ Political parties are prohibited from organising “processions”, candidates and their family members are not allowed to engage in door-to-door campaigning or canvass in person, and are also prohibited from distributing leaflets or posters. Such materials can be displayed only at party or candidate campaign offices; there were no designated public places for this purpose. Candidates had therefore limited possibilities to communicate their messages and numbers to voters. Many ignored these restrictions, which led to minor violent incidents and arrests of party activists.

Although the campaign was assessed by stakeholders as largely peaceful, there were incidents involving firearms that resulted in several deaths as well as numerous cases of assault and arson. The major incidents, however, appeared to be isolated and did not lead to an escalation of violence. The police played an active role in maintaining campaign rules and in following up on violations. However, many opposition candidates from the UPFA criticised the police for being slow to take up their complaints. EU EOM observers reported that often police did not act in a consistent manner across the country. Some 700 arrests were made in connection with election law violations. Most were linked to the illegal display of posters on vehicles, other illegal displays of posters and the unauthorised use of loudspeakers for election propaganda. More than 100 arrests related to election violence were made. At least 11 candidates were arrested for breaching campaign rules.

Almost all interviewed candidates claimed that there were far fewer incidents of misuse of state resources (vehicles, offices and employees) in comparison to previous elections; around 50 such cases were reported by domestic observer groups. The Commissioner of Elections was praised by party representatives as well as by civil society representatives for being active in trying to resolve such cases.

Party and campaign finance are not regulated. The laws establish no limits on contributions or spending, and there are no disclosure requirements. This results in a lack transparency and accountability and does not contribute to a level playing field between candidates, contrary to international standards for transparency of campaign finance.⁷ According to interlocutors, election campaigning was very costly and some candidates allegedly spent over EUR 500,000 each. As candidates covered their own costs with little or no support from the party, only those with access to financial resources could afford to mount a high-profile campaign.

⁶ Article 25 ICCPR, United Nations Human Rights Commission, General Comment No. 25, paragraph 25: *The free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential... including freedom... to campaign.*

⁷ Article 25 ICCPR, United Nations Human Rights Committee, General Comment No. 25, paragraph 19: *Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party.* See also Article 1 (i), ECOWAS, Protocol on Democracy and Good Governance, 2001 and Article 5 of the 2001 Inter-American Democratic Charter.

Media Environment

Sri Lanka's media environment has been undergoing significant changes since the election of President Sirisena in January. The constitutional guarantee of freedom of expression was respected during the campaign. State media outlets provided a platform for various political parties in a wide range of newspaper articles, news programmes, debates and political talk-shows. While results from the EU Election Observation Mission media monitoring unit indicate a bias by state TV channels in favour of the UNP, the accommodation of a plurality of viewpoints and the move towards balanced coverage are to be welcomed.

While the media landscape is diverse and coverage vibrant, ownership and/or management of many private broadcast and print outlets is heavily politicised, leading to electoral coverage favouring particular candidates or parties, thus undermining the principles of balance and impartiality. The absence of community and independent regional broadcasters represented a significant gap in local information sources for voters. The resulting predominance of election information sourced in Colombo, combined with the prevalence in TV coverage of well-known candidates and party leaders, narrowed the possibilities of access to the media by lesser-known candidates with fewer resources, especially those running outside the capital.

In the absence of a broadcasting regulator, oversight of state media for these elections rested with the Commissioner of Elections, who used powers granted under the constitution to issue guidelines to state outlets. While these guidelines were widely welcomed, the broad interpretation of the Commissioner's powers, including the possibility to order state media outlets to halt broadcasts, challenged recently gained media freedoms. During the campaign the Commissioner told broadcasters to stop retransmissions of a speech by President Sirisena. The Commissioner also ordered state radio broadcaster SLBC to halt political broadcasts on the recently established Election FM. As the channel is devoted to election coverage, this would in effect have shut it down. The order followed a complaint by the UPFA alleging biased reporting. SLBC received no warning. The Commissioner later agreed to allow the channel to continue broadcasting.

Further, the potential sanction of a three-year jail term for failure by state employees (including journalists) to comply with his directions is disproportionate. The provision in the election law to deny suffrage and candidacy rights for up to three years to anyone who publishes a false statement about a candidate or party where the statement is "capable of influencing" the election result is excessive.

Preliminary results of media monitoring by the EU EOM⁸ indicate state TV Rupavahini devoted more than half its editorial coverage of elections (51 per cent) to the UNP-led coalition in a largely positive (75 per cent) and neutral (22 per cent) tone. The channel accorded some 27 per cent of coverage to the UPFA: 23 per cent to political actors within the

⁸ The EU EOM carried out a quantitative and qualitative analysis of the following TV channels from 24 July to 14 August between 18h00 and 24h00: Rupavahini; ITN; Derana; Shakthi; Sirasa; and Swarnavahini. It monitored the following FM stations from 27 July to 14 August between 06h00 and midday: Election; Hiru; City; Sooryian; and Shree. Newspaper coverage monitored by the EU EOM from 27 July to 14 August included the main news sections of the following: Daily Mirror; Daily News; Divaina; Uthayan; Thinakkural; Sunday Observer; Sunday Lankadeepa; and Sunday Times. The results indicated are preliminary; final figures will be included in the final report of the mission.

coalition who declared their allegiance to Mr Rajapaksa, and 4 per cent to those supporting Mr Sirisena. The tone of this coverage varied. For those supporting Mr Sirisena it was largely positive (81 per cent) or neutral (17 per cent); for those supporting Mr Rajapaksa, 56 per cent was positive and 29 per cent negative. Of the 14 per cent of airtime allocated to the JVP, the tone was mostly positive (71 per cent).

State TV channel ITN devoted 40 per cent of its editorial electoral coverage to the UNP-led coalition in a largely positive (81 per cent) or neutral (17 per cent) tone. Some 30 per cent of airtime was accorded to the UPFA: 22 per cent to political actors in the coalition who support Mr Rajapaksa, and 8 per cent to those supporting Mr Sirisena. The tone of coverage of the pro-Sirisena faction was 65 per cent positive and 4 per cent negative; for those backing Mr Rajapaksa it was 65 per cent positive and 16 per cent negative. The tone of the 15 per cent of ITN airtime allocated to the JVP was 76 per cent positive and 23 per cent neutral.

The UNP also dominated both channels' airtime devoted to campaign adverts (Rupavahini 87 per cent; ITN 81 per cent).

Privately owned Tamil-language Shakthi TV allocated 23 per cent of editorial coverage to the Citizens' Front party, which contested these elections independently. The leader of the party is J. Sri Ranga, the channel's news advisor and TV presenter who is also on the UPFA national list. The tone of this coverage was 100 per cent positive. The channel devoted 28 per cent of coverage to the UPFA (with a 100 per cent positive tone for supporters of Mr Rajapaksa, and 65 per cent positive for the pro-Sirisena camp).

Election Dispute Resolution

The legislation provides for complaints and appeals processes that are generally in line with the international principle of judicial review. The right to redress and the jurisdiction of the courts are well defined. However, election-related complaints go through regular administrative procedures with no specific election-related deadlines, which may undermine their timely and effective remedy.⁹

During the pre-election period, Election Complaints Centres established by the Elections Secretariat in every district received over 1,600 complaints contending breaches of electoral rules, most of them alleging illegal displays of campaign material, involvement of public servants in campaign activities and appointments of public officers not allowed during the election period.

A relatively low number of cases were brought before the court. Three complaints pertaining to candidate registration were filed with the Court of Appeal, which dismissed all three as ungrounded. In addition, few cases for violation of campaign rules were filed with lower-level courts. Most notably, 29 provincial ministers were charged over the misuse of state resources involving the use of official vehicles for campaign purposes. The Supreme Court took up a Fundamental Rights Petition invoking the right to equality against former President

⁹ Article 2(3), ICCPR: *Any person whose rights or freedoms [...] are violated shall have an effective remedy.*

Rajapaksa. The petitioner alleged the number of vehicles and security arrangements assigned to Mr Rajapaksa as former president gave him an undue advantage in the campaign.¹⁰ However, the petitioner withdrew the application on 14 August.

During the campaign, there were two court cases concerning the decisions of President Sirisena, acting as SLFP leader, to prevent the meetings of the (reportedly pro-Rajapaksa) Central Committee of the party and to replace the two General Secretaries of the SLFP and the UPFA. At stake was control of appointments of the mandates won through the UPFA national list. In both cases, the court confirmed Mr Sirisena's decisions. As of the time of writing, there was no appeal.

Domestic Observation

The presence of domestic observers contributed to the transparency of the electoral process. The legal framework contains no provision for domestic or international observation. As the accreditation for domestic observers is at the discretion of the Commissioner of Elections, the access of various groups to counting centres was granted without clear and objective criteria.¹¹

The main domestic organisations – the People's Actions for Free and Fair Elections (PAFFREL), the Center for Monitoring Election Violence (CMEV), the Campaign for Free and Fair Elections (CaFFE) and Transparency International Sri Lanka (TISL) – carried out large-scale monitoring of misuse of public resources, campaign violations and incidents of electoral violence. Further, they were engaged in voter education programmes as well as in the observation of postal voting. On Election Day, PAFFREL and CMEV deployed over 15,000 stationary observers while CaFFE and the National Poll Observation Center (NPOC) some 4,000 mobile observers.

Polling and Counting

Election Day was peaceful despite some minor incidents and 35 arrests reported by the police. Voter turnout was around 70 per cent. Voting took place in an orderly, efficient and transparent manner and the overall assessment of EU observers was "very good" to "good". Polling stations observed opened on time or within ten minutes' delay. All essential election materials were available. Polling staff performance was assessed in most cases as competent and impartial. While the vast majority of polling assistants were women, the percentage of female Senior Presiding Officers was extremely low.

Representatives from the main political parties and independent groups as well as domestic observers from PAFFREL and CMEV, many of whom were women, were present in the

¹⁰ Reportedly, former President's security arrangements included 105 police officers, 104 army personnel, and over 30 vehicles including 2 buses.

¹¹ Only 300 domestic observers were accredited to observe the counting in just 30 per cent of the counting centres.

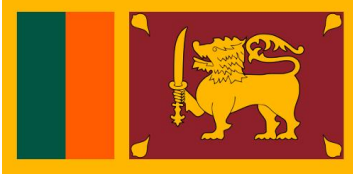
majority of polling stations visited. Although armed police officers were present outside and sometimes inside the polling stations, there were only two cases in which they were playing a pro-active role. EU EOM observers noted only a few cases of campaign materials in polling station vicinities (posters and stickers with the number and photo of candidates).

In the vast majority of polling stations observed (97 per cent), the layout was adequate for the conduct of polling with sufficient space and accessible to voters with reduced mobility (80 per cent). Polling procedures were mostly followed with some procedural irregularities that according to EU observers did not impact on the integrity of the process. However, in some 35 per cent of the polling stations observed, the layout did not sufficiently protect the secrecy of the vote as the positioning of the polling booths gave Presiding Officers a clear view of voters marking their ballots. In some cases voters were not checked for traces of ink, while in a number of polling stations observed the ink was not strong and visible.

Complaints Centres established by the Secretariat of Elections received 226 complaints on Election Day regarding minor irregularities such as problems with the ink, gatherings outside polling stations and distribution of campaign materials. There were also a few allegations of more serious violations such as bribery and intimidation.

Counting was conducted in a transparent, well-organised and fast manner in the counting centres/stations observed by EU observers in the presence of representatives of political parties and independent groups and domestic observers. Procedures were mainly followed and the counting staff performed well. Preliminary results indicated a high number of invalid votes from 6 to 9 per cent in some districts.

*An electronic version of this Preliminary Statement is available on the mission website:
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EUROPEAN UNION - ELECTION OBSERVATION MISSION
PARLIAMENTARY ELECTIONS - SRI LANKA 2015

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**GENUINE AND WELL-ADMINISTERED ELECTIONS,
WITH RESTRICTIVE CAMPAIGN RULES**

COLOMBO, 19 August 2015 – The 17 August Parliamentary Elections in Sri Lanka were “well-administered and offered voters a genuine choice from among a broad range of political alternatives, although campaign rules were restrictive”, said Cristian Preda, Chief Observer of the European Union Election Observation Mission (EU EOM) and Member of the European Parliament, during the presentation of the preliminary report at a press conference.

The mission stated that freedoms of assembly and movement were respected, and despite the restrictive campaign rules — not allowing candidates to engage in door-to-door campaigning, to canvass in person or distribute leaflets — party activists and candidates campaigned vigorously, focusing on small meetings with voters.

The statement also underlines that the Commissioner of Elections and his staff administered the elections in a transparent and impartial manner, demonstrated strong leadership, and enjoyed the confidence of all stakeholders. During the election period, he had exceptionally broad powers to instruct any state institution, including media and the police. “*The wide interpretation of these powers, including that the Commissioner may order state media outlets to halt broadcasts, posed a challenge to recently gained media freedoms*”, Mr. Preda pointed out.

Overall, however, journalists now enjoy a freer working environment, and state outlets could provide a platform for various political parties. Although the main ruling party benefitted from preferential treatment on state outlets, the accommodation of a plurality of viewpoints and the move towards balanced coverage are to be welcomed.

The mission considers that although there are no legal barriers for women to vote or to run as candidates, their participation was extremely low, only 9% of the candidates.

Ignazio Corrao, head of the European Parliament delegation which joined the EU EOM on 12 July, added: “We are happy to say that elections took place in a well-organised manner and we congratulate the new elected members of the Parliament. We hope that they will conduct the important reforms the country needs and look forward to a closer cooperation with the EU”.

The European Union Election Observation Mission to Sri Lanka was established on 15 July, following an invitation from the Commissioner of Elections. The EU EOM findings are based on the information submitted by 85 observers deployed across the country. The mission will continue to observe post-electoral developments and a more comprehensive final report, with a detailed evaluation and recommendations towards improvements for the future, will be published in two months.

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