



EUROPEAN UNION ELECTION OBSERVATION MISSION

22 March 2014 Parliamentary Elections
Republic of Maldives

PRELIMINARY STATEMENT

Well-administered and competitive elections despite difficult electoral environment

Malé, 24 March 2014

SUMMARY

- The 22 March elections to the People's Majlis were well administered despite interference by the Supreme Court, and its action against Elections Commission members, which overshadowed the electoral period and, *inter alia*, led to uncertainty over whether the elections would take place as planned. The elections were competitive, offering voters a genuine choice and candidates campaign freedom. However, vote-buying and excessive campaign expenditure appear to be serious problems.
- Voting was assessed by observers as calm and orderly, and polling staff as competent and professional. Some minor problems were noted but they did not impact on the integrity of the vote. Secrecy was not always protected due to insufficient procedures for voters to vote outside their constituency, the absence of tactile ballot guides for visually impaired voters, and the placement and structure of voting booths in some polling stations. The vote count was assessed positively as the procedures were generally followed and the process was transparent. The result sheets were posted immediately.
- These were the second multiparty parliamentary elections in the Maldives. They were conducted in the midst of a political crisis that has created uncertainty about further transition to democracy. The Supreme Court ruling to remove two members of the Elections Commission less than two weeks before the elections was contrary to the provisions of the Constitution regulating dismissal of Commission members. It violated principles of the separation of powers and raised serious concerns about safeguarding the independence of the Elections Commission.
- Candidate registration was inclusive with a total of 302 candidates running in the 85 single-mandate constituencies. Candidates from six parties were contesting, including the ruling coalition led by the Progressive Party of Maldives, and the main opposition Maldivian Democratic Party. The participation of women was extremely low with only 23 female candidates, just five of whom were elected.
- Candidates were able to campaign freely, with freedoms of association, expression and movement respected. However, the area of campaign finance is insufficiently regulated and there were many worrying reports about significant overspending and a reportedly prevalent practice of vote-buying.
- The legal framework provided an adequate basis for the conduct of democratic elections, broadly in line with regional and international standards subscribed to by the Maldives. However, some deficiencies exist, including in the protection of the secrecy of the vote and adjudication of complaints and appeals. Contrary to the International Covenant on Civil

and Political Rights, the rights to vote and to stand for election are limited on the grounds of religion, as citizenship is limited to Maldivians of Muslim faith, and candidates must be Sunni Muslim.

- The Final Voters' List totals 240,652, a slight increase since the 2013 presidential election. Generally, the stakeholders expressed confidence in the accuracy of the voter register. Some political parties and candidates expressed concerns that more than 6,000 voters without permanent residence in Malé (*dhaftaru*) were unequally distributed among nine constituencies in the capital.
- Freedom of expression is guaranteed in the Constitution provided the information expressed is not contrary to Islam. The liberalisation of the media sector in 2008 has so far not led to media pluralism. Ownership of the main private TV and radio stations is concentrated in the hands of a small number of businessmen and politicians whose ideology is reflected in editorial decisions. This has led to significantly partisan editorial content, hindering diversity and impartiality in coverage of these elections. Media monitoring by the EU Election Observation Mission has shown that, while public broadcaster MBC made efforts to ensure equitable access for all candidates and parties, as set out under the Elections (General) Act of 2008, private TV stations such as Raajje TV and VTV devoted the majority of political/electoral-related coverage to overtly promoting their chosen party and candidates.

PRELIMINARY FINDINGS AND CONCLUSIONS

Background

The 22 March polls were the second multiparty parliamentary elections since the introduction of a new Constitution in 2008 that accelerated democratic reform in the Maldives. These elections were conducted in the midst of a political crisis that has created uncertainty about further transition to democracy. The controversial transfer of power in 2012 and the subsequent protracted presidential election in 2013 deepened the polarisation of Maldivian society.

Candidates from all six registered political parties contested the 2014 elections. The ruling coalition consists of three parties – the Progressive Party of the Maldives, the Jumhoree Party (JP) and the Maldivian Development Alliance (MDA). Adhaalat Party, which supports the coalition, decided to run separately, fielding 12 candidates. The remaining coalition partners divided all contested seats among themselves, with PPM candidates competing in 50 constituencies, JP in 28 and the MDA in seven. The ruling coalition faced internal competition in over 60 constituencies where its representatives were running against candidates affiliated with the coalition parties but who registered as independents.

The Maldivian Democratic Party (MDP) is the main opposition and the largest party in the Maldives with over 40,000 members. It has fielded candidates in all 85 constituencies. The

formerly ruling Dhivehi Rayyithinge Party which was the strongest party in the 2009 elections nominated only six candidates.

Electoral System and Legal Framework

The People's Majlis is a unicameral parliament, comprising members elected by a simple majority in single-seat constituencies (first past the post). The term of office for the People's Majlis is five years. Article 71 of the Constitution provides that every administrative division in the country, ie the 20 administrative Atolls plus the capital Malé, shall have at least two representatives in parliament, with additional constituencies added for each additional 5,000 residents. While there were 77 members in the outgoing parliament, 85 MPs were elected in these polls due to a population increase.

The legal framework provides an adequate basis for the conduct of democratic elections and is in line with regional and international standards subscribed to by the Maldives. There is a lack of legal certainty as the legal system is based on a joint application of common law and Islamic Shari'ah, meaning that the interpretation of law may be indeterminate and unpredictable. There are many lacunae in the law, for example on campaign finance and on electoral dispute resolution. The law governing the registration and dissolution of political parties is unclear, as there are several inconsistent Supreme Court judgments in this sphere. In addition, the Supreme Court issued 16 guidelines during the 2013 presidential election, applied to these elections also, which are vague and at times impracticable and difficult to implement (*see Voter Registration*). Electoral offences are governed simultaneously by the Elections (General) Act and by the 1968 Penal Code, an unsatisfactory situation which creates uncertainty regarding the definition of crimes.

Contrary to the ICCPR, the rights to vote and to stand for election are limited on the grounds of religion, as citizenship is limited to Maldivians of Muslim faith, and candidates must be Sunni Muslim.¹ The Maldives has entered a reservation to Article 18 of the ICCPR, thus restricting freedom of religion, and a reservation to Article 16 of CEDAW (the Convention on the Elimination of All Forms of Discrimination against Women) restricting gender equality in family matters, thereby protecting inheritance laws which discriminate against women.

Preparations for the elections have been overshadowed by the Supreme Court *suo moto*² case against the Elections Commission. The Court found that the members of the Elections Commission had disrespected them, amounting to contempt of court. The consequent removal of the chairperson and his deputy represented an assertion of a power reserved to the People's Majlis. It

¹ Article 2.1 of the International Covenant on Civil and Political Rights requires that "Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".

² The *suo moto* procedure, introduced by the Supreme Court on 6 February, allows the Court to take cases on its own initiative. This was the first use of this procedure in the Maldives.

was a violation of the rules in both the Constitution and the Elections Commission Act. Removal from office of members of the Elections Commission is stated, in Article 177 (a) of the Constitution, to be “on the ground of misconduct, incapacity or incompetence”, and (b) pursuant to a finding to that effect by a committee of the People’s Majlis, endorsed by the house.

Election Administration

The parliamentary elections were well administered by the election administration, comprising the Elections Commission at a central level, 20 Atoll Election Offices, 194 Island Election Officers and 473 Polling Station Committees, including five abroad.

Since the beginning of the election process, the Elections Commission was under pressure due to the Supreme Court action, which raised serious concerns about safeguarding the independence of the Commission. While the Constitution stipulates that the Elections Commission should comprise five members (with a quorum of three), the Commission functioned with only four members since the resignation of one in 2013. After the 9 March Supreme Court ruling, the Commission was left with only two members, thus without a quorum. On 12 March, Parliament approved a new member, thus the EC had the quorum required to complete the election process.

The Elections Commission administered the elections in a professional, impartial and transparent manner. The Commission established the National Elections Advisory Committee comprising representatives of all registered political parties, civil society, the police, the Human Rights Commission and the Department of National Registration (DNR). A high number of accredited domestic observers, party and candidate representatives and media monitors contributed to the transparency and credibility of the election process.

Voter Registration

The Constitution stipulates that every Maldivian citizen aged 18 or older has the right to vote. The Elections Commission has responsibility for preparing, maintaining and updating voter lists, based on the database of the DNR.

The voter lists were published in the official gazette on 5 February for initial inspection. The Commission accepted 1,020 complaints, mostly regarding the omission of voters, the misspelling of names, incorrect addresses and the inclusion of deceased and underage voters. After the amended lists were published, the re-registration phase started on 18 February. A total of 58,501 voters successfully re-registered for voting from outside their constituency. The Final Voters’ List published on 12 March contained 240,652 voters, a slight increase since the 2013 presidential election. Voters could check their voter registration entries and allocated polling stations on the EC website and by SMS. Stakeholders shared a significant level of confidence in the accuracy of the voter register.

The 2013 Supreme Court guidelines introduced the requirement that voter lists be signed by all candidates or their representatives. While all party candidates signed the voter lists for their constituencies, 16 independent candidates from 13 constituencies failed to sign, without officially

stating the reason. In response to an Elections Commission's query, the Supreme Court announced that the elections could be held without all signatures.

There are over 6,000 voters without a permanent registered residence who live in the Malé municipality – so-called *dhaftaru* voters. These are citizens who are waiting to be allocated land or property where they can register their permanent residence. Since they did not yet belong to any constituency, the Elections Commission had to find a solution as to where register them to vote. During the previous parliamentary elections *dhaftaru* were assigned in equal numbers to all constituencies in Malé. This approach, however, was not repeated as it would result – according to the Commission – in unequal constituencies, violating the requirement of no more than a 15 per cent variation. Thus, *dhaftaru* were unequally distributed among the nine constituencies with the lowest numbers of registered residents. However, this approach raised some unsubstantiated allegations that these allocations had been made selectively.

Registration of Candidates

Candidate registration was inclusive and there was only one complaint reported regarding this part of the electoral process (*see Complaints and Appeals*). During the 14-day registration period, the Elections Commission received 316 nominations. It registered 302 candidates and rejected 14 nominees who in most cases did not provide the necessary supporting documents or required signatures. A high number of candidates (114) ran as independents, including those affiliated with coalition parties. All candidates, both independent and those nominated by registered political parties, had to pay a deposit of 5,000 MVR (230 EUR). This is refunded to candidates who win more than 10 per cent of the vote.

Participation of Women

The absence of affirmative action to promote the participation of women in public life was evident in the extremely low numbers of female candidates for these elections. There were only 23 female candidates, just five of whom were elected, representing a decrease from 6.4 to 5.8 per cent female members of parliament. Amongst these candidates, the MDP fielded seven women, the PPM three, while ten of the independent candidates were female.

There are many barriers inhibiting the participation of women in public life, principal among them the prevailing and increasing social and cultural norms which disempower women, confining them to the domestic sphere. Islamic Shari'ah is widely being interpreted in an extremely conservative manner, which works to the disadvantage of women. Women frequently have no access to the financial resources that are a prerequisite to political participation.

Electoral Campaign

The official 30-day campaign period concluded at 6pm on the eve of Election Day. Despite ongoing uncertainty over whether the elections would be held as scheduled, party candidates and many independents actively campaigned across the country. A variety of strategies was used,

including door-to-door canvassing, community gatherings, TV and radio advertisements, use of social media, phoning voters, and rallies. The rights of parties and candidates to campaign freely have been widely respected and there were no complaints received by EU observers.

During the campaign, the ruling coalition led by the PPM promoted the achievements of its government and promised better healthcare and enhanced development assistance to the islands. The MDP called for a “vote for justice” – reform of the judicial system, more power to local councils, better delivery of services and respect for human rights.

The area of campaign finance is insufficiently regulated and there are widespread allegations that overspending as well as vote-buying are common practice. While election campaigns have traditionally been very expensive in the Maldives, with candidates legally spending very substantial amounts (up to 1,500 MVR or some 70 EUR per voter in a constituency), there is no institution mandated to monitor campaign expenditure. In addition, political parties’ spending on behalf of candidates, as well as in-kind donations from third parties, are not regulated. Moreover, there appear to be a lack of awareness and insufficient voter and civic education to combat such vote-buying practices. The absence of reasonable limits on campaign expenditure undermines the right to vote free from compulsion or inducement of any kind, as protected in Article 25 of the ICCPR.

Media Environment

Freedom of expression was generally respected during the campaign, however self-censorship is prevalent in newsrooms, while reporting on religious issues is generally avoided. Freedom of expression is guaranteed in the Constitution provided the information expressed is not contrary to Islam, weakening the protections accorded by Article 19 of the ICCPR.

While the Maldivian media landscape has changed significantly since the introduction in 2008 of private commercial radio and television, the liberalisation of the sector has so far not led to media pluralism. Ownership of the main private TV and radio stations, and their respective websites, is concentrated in the hands of a small number of businessmen and politicians whose ideology is reflected in editorial decisions, leading to significant imbalances in electoral coverage and thus undermining the principles of balance and impartiality. Major stakeholders at several media outlets are either candidates or active in politics.

A lack of clarity in the regulatory framework has led to uncertainty over which agency is primarily responsible for oversight of the broadcasting sector in respect to coverage of elections: the Broadcasting Commission, the Elections Commission or the Media Council. An overlap in the mandates of all three bodies has added to the confusion. The Elections (General) Act (which predates the existence of the Broadcasting Commission) stipulates that all broadcasters (public and private) provide airtime to all parties and candidates during the campaign. Under the Act, a ceiling is placed on each broadcaster to ensure no candidate gets more than 10 per cent above the time allocated to any other candidate.

The EU Election Observation Mission carried out a quantitative and qualitative analysis of six broadcast media outlets during prime time, and a qualitative analysis of four news websites. The results reflect the polarised nature of the media landscape, with the private channels focusing extensively on their chosen candidates and party. VTV, for example, devoted 96 per cent of its primetime elections-related coverage to parties in the government coalition (predominantly JP and PPM), and four per cent to the opposition MDP. Raajje TV allocated 84 per cent of its primetime elections-related coverage to the MDP. Both private channels broadcast interviews in which candidates engaged in negative campaigning and aired unverified rumours about rival candidates.

Public service broadcaster MBC produced a wide range of generally balanced programmes, including live debates between candidates during which the 10 per cent time limit was strictly adhered to. While MBC's overall allocation of airtime to the PPM (46 per cent) is explained by its news coverage of the many government programmes announced in the run-up to the elections, such coverage represented a clear imbalance. The criticism of TVM by the president's office in the last week of the campaign for failing to provide a live broadcast of a ministerial press conference – despite the fact that TVM had devoted several minutes to this story – represented an encroachment on the broadcaster's independence from political interference as stipulated in the Maldives Broadcasting Corporation Establishment Act (2010).

Electoral Disputes

While a National Complaints Bureau, as well as atoll/city elections complaints bureaus, have all been established on an *ad hoc* basis for this election, their role to date has been largely theoretical, as a total of just 18 complaints have been registered in Malé, principally on registration issues, with fewer for the rest of the country. No electoral offences have been prosecuted to date.

Legislation governing the complaints process is insufficiently detailed, while the provisions set out in the Regulations for Parliamentary Elections (2014) establish complaints bureaus which lack adequate investigation and decision-making powers. The courts have concurrent jurisdiction to adjudicate upon many complaints, creating uncertainty as to what forum will be used, the complaints bureaus or the courts. Within the courts system, there is further uncertainty, arising from a Supreme Court ruling in a previous election, as to which court should hear the case, the Magistrates Court or the High Court. Should a case be initiated in the Supreme Court, then the possibility of an appeal is removed.

While the time limit of 14 days for the adjudication of complaints seems, *prima facie*, somewhat long if remedies are to be provided in a timely manner, procedures involving several layers of investigation and adjudication can be protracted. This leads to the possibility that cases may take more than 14 days, which has occurred in previous elections, and cases may therefore be abandoned. This undermines the respect for and the implementation of electoral law, thus undermining the principle of achievement of a timely and effective remedy for complaints made.

Domestic Observation

Transparency Maldives, an NGO with a track record in credible election observation, deployed the largest contingent of independent domestic observers, comprising around 400 people. The organisation also conducted a quick count exercise based on statistical sample. The Human Rights Commission of the Maldives deployed all of its 52 staff as observers, while the media was also present in large numbers at polling stations.

Polling and Counting

Voting was assessed by observers as calm, orderly and efficient (“very good” to “good”) and polling staff, the majority of who were women, were characterised as competent and professional. Some minor deviations from procedure were observed, but observers assessed that procedural safeguards ensured that they did not impact on the integrity of the vote. In the few isolated instances where disputes arose, they were resolved promptly. However, there was some campaigning in the vicinity of polling stations. On Election Day, the Elections Commission received 18 complaints related to voter register and 33 complaints related to campaign activities.

Procedures were correctly followed in the vast majority of polling stations visited. However, in a very small number of cases, polling staff did not explain to voters on how to vote. In another example, voters’ names were ticked off on the voter list instead of having their queue numbers written in. The secrecy of the vote was generally well protected, although a minority of observers reported that in a small number of polling stations, the placement and structure of voting booths allowed observers to see for whom a voter marked their ballot. While the Constitution provides for secrecy of voting, procedures for voters to vote outside their constituency do not ensure secrecy of the vote when there was only single or a small number of ballots cast for a particular constituency. The absence of tactile ballot guides for visually impaired voters limited the secrecy rights of these voters.

Party and candidate agents were present inside and around all polling stations visited, and established desks outside (often featuring campaign materials) from where they kept track of who had voted and mobilised remaining voters. In the isolated cases where disputes arose between party agents, polling staff were able to resolve the issues quickly.

National observers were present at fewer than half of polling stations visited by EU observers. Media monitors, although supposed to be neutral, often openly displayed support for a particular party through wearing their colours or other identifying marks.

Many polling stations closed after 4pm as there were high numbers of voters queuing, mainly in Malé. EU observers made a positive assessment of the counting process, as the procedures were very transparent. In all polling stations observed the result sheets were posted immediately.

comprehensive analysis of the election process and assess the extent to which it complies with international and regional commitments for democratic elections as well as with domestic law. The observer group included 10 locally recruited Short-Term Observers from EU Member States' embassies in Colombo, Sri Lanka. The EU EOM is independent in its findings and conclusions and adheres to the Declaration of Principles for International Election Observation signed at the United Nations in October 2005. On Election Day, observers visited 76 polling stations in 42 constituencies of the Maldives 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 to the citizens of the Maldives, to the government and the Elections Commission, and to the political parties and civil society organisations for their co-operation and assistance in the course of the observation. The EU EOM is also grateful to the Delegation of the European Union in Colombo for its support throughout.

*An electronic version of this Preliminary Statement is available on the mission website.
www.eucom.eu/maldives2014.*

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