

**European Union Electoral Follow-up Mission (EU EFM)
to the Republic of Maldives**

**EuropeAid/136781/DH/SER/Multi
Request 2017/388281**

FOLLOW-UP MISSION REPORT

March 2018

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Abbreviations

AG	Attorney General
AP	Adhaalath Party
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil Society Organisation
EC	Elections Commission
EFM	Election Follow-up Mission
EOM	Election Observation Mission
EP	European Parliament
EU	European Union
IFES	International Federation for Electoral Systems
ICCPR	International Covenant for Civil and Political Rights
IPU	Interparliamentary Union
JP	Jumhoree Party
MDA	Maldives Development Alliance
MDN	Maldives Democracy Network
MDP	Maldives Democratic Party
MFA	Ministry of Foreign Affairs
MP	Member of Parliament (People's Majlis)
SC	Supreme Court
PPM	Progressive Party of the Maldives
TM	Transparency Maldives
UN	United Nations
UPR	Universal Periodic Review



1. Executive Summary

Upon the invitation of the Maldivian authorities, the European Union (EU) deployed an Election Follow-up Mission (EFM) in two phases. Phase 1 took place from 7 to 19 September 2017 and comprised two electoral experts. Due to a proposal of the Maldives' authorities of 9 September to '[...] postpone the visit towards the end of the year [...]', Phase 2 took place from 8 to 11 January 2018 and included the Chief Observer of the 2014 EU Election Observation Mission (EOM), as well as representatives of the EU's European External Action Service (EEAS).

During the Phase 2, the EFM held meetings with representatives of the authorities, including the Elections Commission (EC), the Attorney General (AG), the Speaker of Parliament, the Minister of Gender and Family, the Minister of Home Affairs, the State Minister for Finance and Treasury and Chief of the Department of National Registration, political parties, media and civil society. The EFM also met representatives of the international community. However, some key meetings, notably with the President of the Republic and with the Supreme Court, were not granted.

The timing and length of Phase 2 did not allow the experts to conduct all the technical consultations required to fully assess the state of implementation of most of the 2014 EU EOM recommendations. Only one meeting could be held with the EC, and only one meeting could take place with the joint opposition. In all meetings, the EFM tried to establish the level of implementation of the 2014 EU EOM recommendations, but the mission noted that awareness of these recommendations amongst key interlocutors appeared low.

The 2014 EU EOM was deployed for the March 2014 parliamentary elections, which were the second multiparty elections held in the Maldives. The mission assessed the process as being generally well administered. The legal framework was assessed as overall providing an adequate basis for the conduct of democratic elections, but the 2014 EU EOM found "grave deficiencies in the rights to vote and to stand for election, as well as in the protection of the secrecy of the vote." The lack of legal certainty, campaign finances regulations and monitoring, and vote buying were noted among the main issues.

In its final report, the 2014 EU EOM offered to the authorities, for their consideration, 22 recommendations to improving the electoral process in line with the Maldives' international obligations and commitments, most notably to the International Covenant for Civil and Political Rights (ICCPR). Some of these recommendations, individually or in combinations, were formulated as seven priority recommendations.

The key recommendations highlighted the need to: (a) enhance suffrage rights and freedom of expression; (b) promote gender equality; (c) limit the use of administrative resources and prevent vote buying; (d) regulate campaign finances and political parties functioning; (e) enhance protection for the secrecy of the vote; and (f) ensure legal certainty in the electoral processes. Out of the 22 recommendations, the EFM identified only one – related to promotion of gender equality - which has been fully implemented, and three partially



implemented. The latter three referred to the registration of political parties, reducing discrimination in family laws and fostering media pluralism.

In the past four years, the Maldives has experienced increasing political tensions, characterised by a widely reported deterioration in the respect for fundamental human, political and civil rights, and a loss of trust in state institutions. The European Parliament (EP) and the United Nations (UN) have repeatedly criticised the politicised judiciary and the use of arbitrary detentions as means of pressure on political opponents. Freedom of expression and freedom of assembly have been curtailed by recent amendments to the legal framework. Civil society activists, media and politicians report threats and intimidation.

The tensions intensified in March 2017 when a split in the ruling party, the Progressive Party of the Maldives (PPM) eroded President Yameen's majority in Parliament. After two setbacks, the opposition submitted a third motion of no-confidence on 3 July 2017 supported by 45 MPs' signatures and seeming likely to succeed (as per Parliament rules, 42 signatures are needed for a motion to succeed). In response, the Attorney General (AG) brought legal proceedings to the Supreme Court (SC) seeking a constitutional interpretation on the issue of floor-crossing.

On 13 July 2017, the SC ruled that floor-crossing was to be seen as an act against the expressed will of voters and introduced the 'imperative mandate', contrary to its ruling of 2012 on the same issue. This 'anti-defection' ruling removed seats from MPs who switch party affiliation, or who were expelled by, or who leave the party on the ticket of which they were elected. The SC ordered state institutions, including the EC, to enforce the new rule until an anti-defection law was passed.

As a result, some 12 opposition MPs were officially stripped of their mandate, and the 3 July no-confidence motion was not voted on. These developments were followed by an unprecedented lock-down of the People's Majlis by the military on 24 July. Since then, the People's Majlis remains paralysed, and several MPs and opposition leaders have been charged with criminal offences. By-elections for the 12 vacant seats were not called despite a constitutional deadline of 60 days to fill these seats.

After the completion of the EFM, the political crisis continued to unfold. The EC President resigned on 31 January 2018. On 1 February, and in an unexpected court order, the SC ordered both the release of nine prominent prisoners including eight high profile political prisoners pending a fair trial and the reinstatement of the 12 MPs whose mandates were removed.

Despite initial indications from President Yameen that he would respect the SC ruling and calls for dialogue, the situation rapidly deteriorated. On 4 February, the AG held a press conference, with the heads of the military and the police at his side, ordering the security forces not to follow the SC's decision. On 5 February, President Yameen declared a state of emergency for 15 days. There were reports of the re-arrest of a number of opposition leaders.



Since 2014, electoral reforms have not been a priority on the domestic political agenda. International attention, including from the EU, has been focused on broader concerns relating to respect for fundamental freedoms and human rights violations. Domestically, neither the government nor the People's Majlis nor the opposition has sought to address the issue of electoral reforms. To date, the political and institutional environment of the Republic of Maldives has not been conducive to the adoption of meaningful and concerted electoral reforms.

2. Introduction

Upon the invitation of the authorities, the EU deployed an Election Follow-up Mission (EFM) comprising two electoral experts to the Republic of Maldives on 7 September. On 9 September, the MFA informed the EU that "[...] due to sudden scheduling of parliamentary by-elections in a number of constituencies, the Elections Commission hence proposes to postpone the visit towards the end of the year. [...]" Therefore, the team departed from the Maldives on 19 September after having met representatives of the civil society and the media, the AG office, the Broadcasting Commission and the Human Rights Commission, but without the opportunity to meet the Elections Commission (EC) or any political party.

The second phase of deployment, including the Chief Observer, representatives of the EU's European External Action Service (EEAS), and the two experts, took place between 8 and 11 January 2018. During this phase, the EFM held meetings with representatives of the authorities, including the EC, the Attorney General (AG), the Speaker of Parliament, the Minister of Gender and Family, the Minister of Home Affairs, the State Minister for Finance and Treasury and Chief of the Department of National Registration, political parties, media and civil society. The EFM also met representatives of the international community. However, some key meetings, notably with the President of the Republic and with the Supreme Court, were not granted.

The timing and length of the second phase of the EFM did not allow the experts to conduct all the technical consultations required to fully assess the state of implementation of most of the 2014 EU EOM recommendations. Only one meeting could be held with the EC, and only one meeting could take place with the joint opposition.

The EFM noted that awareness of the 2014 EU EOM recommendations amongst key national interlocutors appeared low, which impeded meaningful discussions on the reasons for their non-implementation. Some interlocutors were also unable to distinguish EU EOM recommendations from those of other election observers' groups.

The team is grateful to the EU Delegation to the Maldives for its continuous support during their stay in Male and Colombo.



3. Political Background

3.1 Overview

The March 2014 parliamentary elections were the second multiparty elections held in the Maldives. They were conducted in the context of a political crisis over uncertainty about the country's transition to democracy. The crisis originated by the controversial resignation of President Mohamed Nasheed, in February 2012, elected on the ticket of the Maldivian Democratic Party (MDP), and a contentious 2013 presidential election that brought Abdullah Yameen, from the Progressive Party of the Maldives (PPM) to power. Until now, the Maldives continue to experience significant political tensions, characterised by a widely reported deterioration in the respect for human, political and civil rights, and a loss of trust in state institutions. The international community, and in particular the European Parliament and the United Nations, have repeatedly criticised the politicised judiciary and the use of arbitrary detentions as a mean of pressure on political opponents.

Since the 2014 elections, the dynamics of the unicameral Parliament (the People's Majlis) was characterised by a number of Members of Parliament (MPs) changing their political affiliation by switching from one parliamentary faction to another, regardless of the party ticket they were elected on (i.e. 'crossing the floor'). This affected the ruling majority in the People's Majlis. In March 2017, a split in PPM between factions loyal to President Yameen and others loyal to former President Gayoom, marked a turning point and led to three procedural attempts to unseat the Speaker of Parliament, the rise of a united opposition,¹ and a security and judicial crackdown on opposition figures that undermined the democratic order and the separation of powers. After two setbacks, the opposition submitted the third motion of no-confidence on 3 July 2017. In response, the Attorney General (AG) brought legal proceedings to the Supreme Court (SC) seeking a constitutional interpretation against the issue of floor-crossing.

On 13 July 2017, the SC ruled that floor-crossing was to be seen as an act against the expressed will of voters, therefore introducing an imperative mandate. This SC "anti-defection ruling" removed seats from MPs who switch party affiliation, or who were expelled by, or who leave, the party/ ticket on which they were elected. The SC ordered state institutions, including the Elections Commission (EC) to enforce the new rule until an anti-defection law was passed. As a result, some 12 MPs were officially stripped of their mandate, and the 3 July no-confidence motion was deemed invalid. These steps were followed by an unprecedented lock-down of the People's Majlis by the military on 24 July. Since then the People's Majlis has remained paralysed, and several MPs and opposition leaders have been charged with criminal offences. A series of by-elections for the 12 now vacant seats have not been held despite a constitutional deadline to fill these seats within 60 days.

There have been repeated instances of criticism of the judiciary and the security forces for perceived political bias. The 2014 EU EOM noted previous cases in which the SC has

¹ The opposition comprises a group of 45 MPs including dissident from the PPM alongside the MDP, the Jumhoree Party (JP), the Adhaalath Party (AP) and some independents,



interfered in the work of the People's Majlis and other institutions, including the EC. There have also been numerous cases of charges brought against members of the opposition, often using the Anti-Terrorism Act (2015). Currently, all opposition leaders are imprisoned, in exile, or otherwise restricted in their movements.² Representatives of the joint opposition met by the EFM reported persistent harassment and intimidation, and gave related examples of where the practicing licences of 54 lawyers seen as being close to the opposition were suspended in September 2017 by a decision of the Department of Judicial Administration, although 37 have been reinstated as of 29 October 2017.³ The EFM was informed that the opposition was expected to nominate a candidate for the presidential elections scheduled for 2018.

3.2 International Reactions

The Maldives has faced increasing international scrutiny and criticism over the deteriorating situation of human rights, and this was a crucial factor in the country choosing to leave the Commonwealth in October 2016. Following complaints of mistreatment of those in custody, the UN Working Group on Arbitrary Detention (UNWGAD) has been following cases of political detention. In his 11 September 2017 opening statement to the 36 Session of the UN Human Rights Council, the High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, strongly criticised the Maldives for the shrinking of political space and the political bias of the judiciary.⁴ The Maldives' permanent representative to the UN in Geneva dismissed the criticism as 'inaccurate and unfounded'.

The EU, including its Member States and the European Parliament (EP), has undertaken various political steps to raise its concerns to the Government of the Maldives about the political crisis and the restrictions to fundamental freedoms. There have been numerous resolutions and discussions at the EP, some involving proposals for the use of targeted sanctions.⁵

² In March 2015, former President Nasheed was sentenced to 13 years in jail; he was then granted leave permission in 2016 for undertaking medical treatment in the UK where he obtained political asylum. President's Nasheed conviction has been widely criticised in the international media and by the international community. Similarly, the AP leader, Sheikh Imran Abdullah, was convicted in February 2016 12 years in jail on a charge of inciting unrest for staging a rally against the jailing of dissidents. In addition to Nasheed and Imran Abdullah, JP leader, Gasim Ibrahim, was sentenced to three years in jail in August 2017, under the charges of bribery, and was consequently stripped from his seat, <http://maldivesindependent.com/politics/gasim-sentenced-in-absentia-to-three-years-stripped-of-seat-132255>. In 2016, independent MP Ahmed Mahloof, the new spokesperson of the united opposition, was sentenced twice to a few months in jail for having participated in anti-government protests. During the May Day 2015 anti-government protest more than 170 people were arrested, <https://www.theguardian.com/world/2016/feb/17/maldives-court-jails-opposition-figure-sheikh-imran-abdulla-for-12-years>

³ For details please see Section 8 'Media and Freedom of Expression', below.

⁴ <http://www.ohchr.org/EN/NewsEvents/Pages/media.aspx?IsMediaPage=true>.

⁵ In February 2016, a delegation from the EP visited the Maldives and raised concerns about arbitrary detentions of political prisoners and the general human rights situation. On 5 October 2017, the EP issued Resolution 2017/2870/(RSP) expressing '[...] its deep regret at the deteriorating political and human rights situation in the Maldives [...]', <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2017-0383+0+DOC+XML+V0//EN>. Finally, an EP delegation visited the Maldives on 29–31 October 2017 and at the meeting with HE President Abdulla Yameen, MEPs underlined that it is essential to create the necessary conditions so that the 2018 Presidential Elections can take place in a visibly free and fair manner. They also



Since 2016, the UN Department of Political Affairs has sought to facilitate inter-party dialogue, so far without success.

The Inter-Parliamentary Union (IPU), in a unanimous decision of its Governing Council on 18 October 2017, criticised the Maldives for the removal of mandates from its elected MPs as being contrary to the Constitution, the Political Parties Act, and a 2012 decision of the SC.

3.3. Prospects for electoral reforms and recent developments

Since 2014, electoral reforms have not been a priority on the political agenda. International attention, including from the EU, has understandably focused on broader concerns relating to respect for fundamental freedoms and human rights violations. Domestically, neither the government nor the People's Majlis or the opposition has sought to address electoral reforms.

During its January 2018 visit, the EFM was informed that the Office of the AG was reviewing draft amendments to electoral legislation ahead of the upcoming 2018 presidential elections, possibly based on proposals submitted by the EC.⁶ It was not clear whether the amendments would make improvements to the electoral framework, or whether the EC's proposals would be formally introduced for adoption by the People's Majlis.

After the completion of the EFM visit, the political crisis continued to unfold. The EC President resigned on 31 January 2018. On 1 February, in an unexpected court order, the SC ordered the release of several prominent political prisoners pending a fair trial, and the reinstatement of the 12 MPs whose mandates were removed. Despite initial indications by President Yameen to respect that order and calls for dialogue, the situation rapidly deteriorated. On 4 February, the AG held a press conference, with the heads of the military and the police at his side, ordering the security forces not to follow the SC's decision. On 5 February, President Yameen declared a state of emergency for fifteen days, and there were reports of the re-arrest of a number of opposition leaders. In this current context, with a situation that remains highly volatile, the likelihood of meaningful attempts at electoral reform is limited.

expressed their concerns regarding the shrinking of space for civil society and media, https://eeas.europa.eu/headquarters/headquarters-homepage/34794/delegation-european-parliament-visits-maldives_en.

⁶ Please see Section 5 'Election Administration', below.



4. Legal Framework

4.1 International Obligations and Commitments

The Republic of Maldives has acceded to key international human rights instruments, such as the ICCPR, the CEDAW, and the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention against Corruption, and the Convention on the Rights of Persons with Disabilities (CRPD).

The analysis of the obligations under international law of the Maldives, presented by the 2014 EU EOM final report focuses on two issues. The first one is the reservation of the Maldives concerning Article 18 of the ICCPR thus restricting freedom of religion, addressed by Recommendation 4. The second one, addressed by Recommendations 3, 17 and 18, is a reservation with regard to Article 16 of CEDAW which fails to ensure equality of women in inheritance laws and, inter alia, diminishes possibilities of women to participate in politics. Neither of these reservations has been withdrawn to date. In addition, there is an issue related to non-compliance with Article 27 of the Constitution with ICCPR Article 19, addressed by Recommendation 19.

During Phase 1, representatives of the authorities indicated that consideration was given to withdraw the Maldives' reservation with regard the Article 16(a) of CEDAW. It would, however, appear that there is limited progress related to the withdrawal of the above-mentioned reservations.

4.2 Domestic Legislation

The 2014 EU EOM notes that '[...] *While the legal framework overall provides an adequate basis for the conduct of democratic elections, there are grave deficiencies in the rights to vote and to stand for election, as well as in the protection of the secrecy of the vote. Moreover, there is a lack of legal certainty as the legal system is based on a joint application of common law and Islamic Sharia, meaning that the interpretation of law may be indeterminate and unpredictable.* [...]'. In this context, the EOM has offered Recommendations 1-4:

- (1) Legislation should clearly define the division of competences of the courts, the Elections Commission, the police and the Anti- Corruption Commission during the electoral process as well as other independent institutions.
- (2) Enact new legislation on minimum requirements for registration and continued operation of political parties;
- (3) Consider ending discrimination in family laws, including inheritance laws;⁷ and
- (4) Revise Constitution: Article 9 – that one be a Muslim to be a citizen to vote; Article 73 – that one be a Sunni Muslim citizen to stand for election.

⁷ Please see Section 9 'Gender Equality', below.



The EFM was informed by the Office of the AG, that there was the intention to address Recommendation (1), but no evidence was provided to this effect. With regard to Recommendation (2), it was partially addressed by an amendment to the Political Parties Act of 2015, incorporating a former SC guideline, which reduced from 10,000 to 3,000 the necessary membership to constitute a political party, although the provision on state financing remained unchanged, and 10,000 members are still necessary to obtain state funding. Recommendation (4) was not addressed.

5. Election Administration

The 2014 EU EOM concluded that the elections were well administered, in an inclusive and transparent manner. *‘There was a high level of confidence among election stakeholders in the performance of the election administration and the only criticism noted was related to the process of delineation of parliamentary constituencies in Malé.’* Of the 22 recommendations, four can be identified as specifically addressed to the administration or management of elections, Recommendations 5, 6, 8 and 9:

- (5) In case of one voter or a small number of voters voting for a particular constituency in the polling station located outside of their constituency, appropriate measures should be taken in order to guarantee the secrecy of the vote.
- (6) Consideration could be given to decrease significant variation in the population size of electoral constituencies. Preferably the size of the electoral constituencies should not vary more than 15 percent in the whole country not only in administrative units.
- (8) Greater flexibility is required in the area of invalid ballots to grant discretion at the polling station to ascertain the intent of the voter. If the intent is clear on the ballot paper, consideration should be given to including that vote as valid.
- (9) In case a voter mistakenly spoils his/her ballot, there should be a provision to obtain a new ballot. There should be a surplus of additional ballots also provided for voters voting outside their constituencies.

None of these recommendations has been implemented.

Following the 2014 elections, IFES, UNDP and local stakeholders, including the EC and political parties, participated in a joint consultation process on electoral reforms that focused on the 2014 EU EOM report, together with the Commonwealth observers’ report, and CSOs reports, as a basis for discussion. IFES and the UNDP project ended electoral activities in the Maldives in 2015, and currently, there are no international organisations working on or preparing for electoral reform.

In January 2018, the EC provided the EFM with a list of proposed amendments to the legislative framework that had also been submitted to the Office of the AG. Only two of these amendments would appear to address an EU EOM recommendation relating to campaign finance, e.g. Recommendation 11. The AG also informed the EFM that his office was using the EC draft as a basis for preparing draft amendments to various electoral laws.



The AG also stated that the draft amendments would also propose the incorporation of a set of electoral guidelines issued in 2013 by the SC into the legal framework. A verbal assurance was given that the draft amendments would also address some of the 2014 EU EOM recommendations, although it was not specified which ones. The AG Office did not provide the EFM with the full text of the draft amendments, and therefore it is not possible to comment on it.

The EFM received numerous reports from interlocutors of a significant loss of trust in the credibility of the EC compared to 2014. The EC is reportedly seen as lacking independence from the Government and ruling party. The EFM was also informed of concerns over technical shortcomings and that half of the EC personnel from 2014 had since left its employment, including senior staff. Observations of the 2017 local elections had noted problems in the election administration, including a lack of voter education and training of electoral officials; late decision-making; delays in opening and closing of polling stations; delays in posting official results; a lack of transparency. Issues related to voter secrecy, also identified by the 2014 EU EOM in Recommendation 5 (above), are reported to have persisted. In contrast to the 2014 elections, an Advisory Committee that was present at the EC during the 2017 local elections did not include Transparency Maldives (TM), or any other CSO.

The EC informed the EFM that it had invested in the recent past in improving the use of information technology within its work, but expressed the wish to receive technical support in training, especially for new staff. The EC also mentioned the need for the support of civic and voter education and for fostering greater awareness about elections. The EC indicated that it was sufficiently staffed and resourced for the organisation of the 2018 presidential elections. However, at the time of the mission, it stated that it had not yet received supplemental funds from the Ministry of Finances to conduct the long overdue by-elections for the 12 parliamentary seats vacated by the decision of the SC of 13 July 2017.

6. Voter Registration

The 2014 EU EOM concluded that ‘[...] Stakeholders shared a significant level of confidence in the accuracy of the voter register. [...]’ and offered two recommendations related to voter registration, Recommendations 7 and 10:

- (7) The people should have a right to register themselves as voters in electoral constituencies they permanently reside in, in order to be effectively represented by Members of Parliament. The process should be accompanied by an information campaign.
- (10) To improve the update of the voter register, the process of the display of voter register should be extended so there would be more time for voters to check their data. The process could be accompanied by a massive information campaign reminding voters about their responsibility.

The EFM was not informed of any follow-up on these recommendations.



7. Campaign Environment

The 2014 EU EOM noted that the ‘[...] rights of parties and candidates to campaign freely were widely respected and there were no complaints received by EU observers. [...]’. However, ‘[...] the area of campaign finance was not sufficiently regulated and there were widespread allegations that overspending as well as vote buying were common practice [...]’. Other recurrent allegations noted by the mission concerned abuse of administrative resources, including use of civil servants in campaigns. It also noted that the EC lacks monitoring and enforcement powers and that there was no institution effectively in charge of monitoring campaign expenditure.

The EU EOM consequently made Recommendations 11 - 14:

- (11) Campaign finance rules need to be overhauled and revised to ensure accountability and transparency in contributions and spending on campaigns of political parties and candidates. An adequate and impartial monitoring framework is also required to provide an appropriate regulatory environment in this area with reasonable donation and spending ceilings, and provisions regulating third party spending and in-kind contributions put in place to ensure a level playing field between candidates.
- (12) Clearer regulations and an adequate framework for minimising the use of state resources during campaign periods should be introduced. A moratorium on the government members and ruling parties’ candidates opening public works should be considered during a campaign period. The civil service should introduce a code of conduct providing for measures to ensure scheduling, finalisation and inauguration of these works is not used instrumentally, by elected officials, for campaign purposes
- (13) Police and other state agencies in cooperation with EC should prioritize monitoring, investigation and prosecution of all reported cases of vote buying before and after elections.
- (14) Civil society should be more actively engaged in civic and voter education across the country and a wider range of civil society organisations should be identified that can provide appropriate civic and voter education tools and platforms. (N.B as a mean to fight vote buying)

The EFM was informed that amendments to the legal framework were being drafted by the AG Office, upon proposed draft amendments from the EC.⁸ Those would allegedly take into consideration the 2014 EU EOM recommendations on the issues of campaign finances, vote buying and use of administrative resources.

⁸ Please see Section 5 ‘Election Administration’, above.



The EFM did not receive any indication that any of these recommendations are being implemented. The TM report on the 2017 local elections indicated that significant problems existed ‘[...] in the larger electoral and political environment which included: the lack of a level playing field for opposition political parties, severe and arbitrary restrictions on media freedoms, freedom of assembly and expression, all of which restrict political and campaign activities; vote buying and the misuse of public resources for political campaigning. [...]’

In 2016, an amendment to the 2013 Freedom of Peaceful Assembly Act introduced that gatherings and protests can take place in only one specific area of Male, the so-called “carnival area”, which is located in a secluded part of the capital city. The EFM was informed by the authorities that prior notice or permission from the police was not needed, but that permission to use the place was required from the Ministry of Housing. CSOs asserted that the implementation of the act was often arbitrary. In addition, in the recent past, citizens from the atolls were sometimes not allowed to attend gatherings in Male. The Ministry of Home Affairs informed the EFM that there were no restrictions nor permissions needed for gatherings on the other islands.

8. Media and Freedom of Expression

The 2014 EU EOM has noted that the ‘[...] liberalisation of the media sector has so far not led to media pluralism. Ownership of the main private television and radio stations and their respective websites are concentrated in the hands of a small number of businesspeople and politicians whose political ideologies are reflected in editorial decisions. This has led to significantly biased electoral coverage, thus undermining the principles of balance and impartiality. [...]’ The mission also states that ‘[...] The Constitution guarantees freedom of expression provided the freedom is exercised in a manner “not contrary to any tenet of Islam” (Article 27), thus eroding rights enshrined in Article 19 of the ICCPR. The Maldives has entered no reservation to this Article. The wide interpretation of “tenet of Islam” during the election campaign [...] – underscores the many ways and unpredictable manner in which freedom of expression is open to infringement [...]. 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 elections coverage: the Elections Commission, the Broadcasting Commission or the Media Council. An overlap in the mandates of all three bodies has added to the confusion. [...]’.

In this context, the 2014 EU EOM offered Recommendations 19-22:

- (19) Amend Article 27 of the Constitution to bring it in line with Article 19 of the ICCPR.
- (20) Update legislation – Elections (General) Act 2008; Broadcasting Act (2010) and Media Council Law (2008) – to clarify the mandates of the regulatory bodies and provide a clear delineation of responsibilities for regulatory oversight of broadcast coverage of elections. A merger between the Media Council and the Broadcasting Commission could be considered.



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- (21) Provide training and professional development courses for journalists and managing editors. Technical assistance could be provided to help develop the recently established journalism faculty at the Maldives National University into a centre of excellence offering practical work placements in newsrooms. This could be carried out as part of a wider media strategy aimed at developing a pluralistic and independent media sector producing high-quality content on a wide variety of issues (not just politics), including social, environmental, health, arts and education issues.
 - (22) Use of the Broadcasting Commission's licensing system to promote diversity on the airwaves and foster media pluralism. Efforts should be made to encourage and facilitate the development of community/associative broadcasters and websites.

The AG informed the EFM that a draft bill was sent to the People's Majlis to merge the Broadcasting Commission with the Media Council. The composition of the new body would be established in accordance with the rules of the composition of the Broadcasting Commission, e.g. proposed by the President and nominated by Parliament. While this merger was recommended by the 2014 EU EOM, its expected composition is a source of concern for some media outlets as they see it could curtail their independence.

The EFM did not identify any intention to address Recommendations 19, 21 and 22, as well as Recommendation 20 beyond the merging of the Media Council and the Broadcasting Commission. Respect for the freedom of expression remains a serious issue, as underscored by the Maldives' rank (117 out of 180 - down from 112 in 2016) on the World Press Freedom Index in 2017.

A number of recent developments illustrate the deteriorating trend concerning the respect for freedom of expression. In August 2016, the People's Majlis approved the Freedom of Expression and Protection against Defamation Act. It recriminalized defamation, which was decriminalised by the 2008 Constitution. Implementation of this act is in the joint competence of the Media Council and the Broadcasting Commission, as well as the law enforcement agencies and the courts. A representative of the AG Office referred to Article 19(3) of the ICCPR and Article 33 of the Constitution in an attempt to explain the relevance of the law in the context of the right of protection of 'one's reputation and good name'. However, none of these provisions implies the recriminalization of defamation.

The Media Council and the Broadcasting Commission can open cases for defamation either upon complaints received or on their initiative. If these bodies decide that defamation of a person has taken place, they are authorized to impose a fine varying between 50,000 and 150,000 MVR for individual perpetrators and between 50,000 and 2,000,000 MVR for the broadcaster. The accused of defamation must first pay the fine and only then appeal against it. Failure to pay the fine results in three to six months imprisonment of the individual or suspension or withdrawal of the license for the broadcaster. According to representatives of the Broadcasting Commission, five cases of defamation have been established and sanctioned as of the middle of September 2017 only by the Broadcasting Commission, and, at the time of writing, the fines have been paid. The Media Council whose board is constituted of journalists has not issued any fines at the time of writing.



Media reported that the Broadcasting Commission imposed heavy fines on Raajje TV, an outlet perceived by some as independent from the incumbents. It would appear that these fines have a severe impact on the capacity of the Raajje TV to continue its reporting in an independent and credible manner, besides, it was reported to the EFM that these fines lead to self-censorship.

On 10 September, 54 lawyers, approximately one-third of the Maldivian lawyers, who ‘[...] tried to submit a petition outlining serious concerns with the judiciary to the Supreme Court have been indefinitely suspended and barred from appearing in any court in the Maldives. [...]’. They were suspended pending a contempt of court inquiry and were accused of “interfering with the work of the judiciary, attempting to exert influence, writing an unlawful document in violation of the jurisdiction, procedures and judgements of the courts, signing that document, [and] creating difficulties for the Maldivian judiciary”. According to the media, soon after the suspension, 37 of the 54 lawyers had their rights reinstated, the last eight – on 29 October 2017. As of 31 January 2018, the status of the remaining 17 lawyers was not clear.

CSO representatives were of the view that there is freedom of expression in the Maldives “as long as one does not express critical views on the government and the religion.” Of concern, there are frequent reports of human rights defenders being threatened or harassed, including by the police. A blogger, 29 years old Yameen Rasheed, was stabbed to death on 23 April 2017, allegedly by a group of radicalised young men, the investigation is ongoing. The motives of the murderers were reportedly that the blogger was guilty of insulting Islam. The hearing on the case began on 11 September, behind closed doors, upon the request of the Prosecutor General. On 28 December 2017, Ms Shahinda Ismail, Executive Director of the Maldives Democracy Network (MDN) became the focus of criticism, threats and even a police probe for saying that Allah allowed for other faiths after President Abdulla Yameen said he would only permit Islam to be practiced in the Maldives.

9. Gender Equality

With only five women elected to the People’s Majlis out of a total of 85 MPs, the Maldives ranks 176 out of 187 in the IPU world classification on women’s representation in parliament.⁹

The 2014 EU EOM offered Recommendations 3, 17 and 18 to enhance women’s participation in political affairs.

(3) Consider ending discrimination in family laws, including inheritance laws.

⁹ 187 being the worst position, <http://www.ipu.org/wmn-e/classif.htm>



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- (17) Adopt legislation requiring affirmative action policies within political parties, requiring integration of women within party structures and selection of women as candidates. Confer enforcement powers upon the EC.
 - (18) Adopt equality legislation which outlaws both direct and indirect discrimination on the grounds of sex.

Recommendation 18, the only implemented recommendation from the 2014 EU EOM final report, was addressed when the Gender Equality Act was enacted in August 2016. The Act was drafted with the support of the UN for civil society to hold stakeholder consultations, compile comments, and lobby the Social Affairs Committee to bring the Act closer to international human rights standards.

The new Act generally prescribes for the principles of equality and non-discrimination and provides a definition of gender discrimination that complies with the definition of discrimination against women as provided for by CEDAW. However, it fails to explicitly repeal or abolish discriminatory legal provisions, policies, regulations, customs and practices which constitute discrimination against women. Furthermore, the emphasis is placed on equality of opportunity but not necessarily on equality of results for men and women. The law does not contemplate an obligation for the State to take affirmative action or propose incentives to promote women's political participation.

The Ministry of Gender and Family is responsible for implementing the law. The EFM has been informed that the Ministry was currently finalising an Action Plan for this purpose.

The EFM was informed that an amendment to family laws was introduced in 2015 related to protecting women's rights during a divorce. Although this is not directly related to the EU recommendation, it can be regarded as a limited positive, step towards equality.

The EFM met with Women and Democracy, a CSO established in 2016 working with women's political rights. With the support of the UK High Commission, this CSO works on building up a manifesto promoting women's political rights for parties to adhere to.

10. Electoral Justice

The 2014 EU EOM has noted that the EC has powers to adjudicate on complaints related to registration of parties and candidates. However, the powers of EC to investigate complaints and its relationship with the authority of the Prosecutor General remain unregulated. In addition, the courts also have extensive jurisdiction to adjudicate upon complaints, sometimes simultaneously with the EC. Electoral offences are listed in several pieces of legislation and administrative acts.

In this context, the 2014 EU EOM has offered two recommendations, Recommendations 15 and 16, intending to clarify and codify offences, and ensure an effective dispute resolution process



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- (15) Review the provision of criminal law dealing with electoral offences, codifying all rules in either a single chapter of a new penal code; or in a new law on electoral offences.
 - (16) Review the operation of the existing complaints & appeals mechanism, considering the introduction of an alternative model.

The EFM did not identify any follow-up to these recommendations.

11. International Support to the Electoral Process

The EC received international assistance until 2015 when IFES closed its office in the Maldives. The UN Development Program stopped its support to the EC around the same time, and at the moment there is no financial or technical international support to the EC. After the completion of the 2014 EU EOM, the EU has not supported electoral reforms in the Maldives.

At the time of writing, there is limited international support, which is all aimed at CSOs. The local branch of Transparency, Transparency Maldives, receives support from the EU and the UK High Commission; ‘Women and Democracy’ is also funded by the UK High Commission.

12. Conclusions

The Annex demonstrates the limited implementation of the 2014 EU EOM recommendations, with only one fully implemented and three partially implemented from a total of 22 recommendations. In the context of the restricted number of EFM meetings, the EFM noted that awareness of the 2014 EU EOM recommendations amongst national interlocutors was low impeding meaningful discussions on the reasons for their non-implementation.

The deepening of the political crisis, the crackdown on the opposition, the shrinking of political space and recent restrictions on fundamental freedoms remained the focus of national and international attention. To date, the political and institutional environment of the Republic of Maldives has not been conducive to meaningful and concerted electoral reforms.

Although the EFM was informed by the EC and the AG that amendments to various electoral acts were being prepared, given the current political crisis it remains uncertain that meaningful electoral reform can be anticipated in the short term, despite the upcoming presidential elections.



Annex 1. MATRIX OF STATUS OF IMPLEMENTATION OF THE RECOMMENDATIONS OF THE 2014 EU EOM

Country: [Maldives EU EOM 2014 \(Parliamentary elections\)](#)

Date of assessment: [January 2018](#)

Status of implementation – colours green (implemented), blue (no longer relevant), yellow (partially implemented), red (no implementation), white (no longer applicable)

N°	RECOMMENDATION	STATUS	RESPONSIBLE INSTITUTION	COMMENTS
PRIORITY RECOMMENDATIONS				
i.	Legislation should clearly define the division of competences of the courts, the Elections Commission, the police and the Anti-Corruption Commission during the electoral process as well as other independent institutions where there is regulatory or jurisdiction overlap to provide for legal certainty.		People's Majlis	Electoral reform was not a priority in the domestic political agenda. Interlocutors report no political will to conduct a meaningful electoral reform.
ii.	Comprehensive regulations should be introduced to ensure accountability and transparency of campaign and political party finance, including of donations in-kind. Consideration should be given to lowering campaign spending limits, as well as to introducing limits on all donations, including from third parties. An adequate and impartial monitoring mechanism is also required.		People's Majlis	Electoral reform was not a priority in the domestic political agenda. Interlocutors report no political will to conduct a meaningful electoral reform.



iii.	Serious efforts and commitments by all relevant state institutions are required to combat vote buying practices that undermine the core of democratic elections. Police and other state agencies, in cooperation with the EC, should prioritise monitoring, investigation and prosecution of all reported cases of vote buying before and after elections.		All relevant State institutions: Anti-Corruption Commission, People's Majlis. Police, EC	Electoral reform was not a priority in the domestic political agenda. Interlocutors report no political will to conduct a meaningful electoral reform.
iv.	Secrecy of the vote should be ensured for all voters. Adequate measures should be taken in order to guarantee the secrecy of the vote to voters voting outside their home constituency. Several mechanisms existing in international best practice are used to achieve this and they could be considered.		EC	Electoral reform was not a priority in the domestic political agenda. Interlocutors report no political will to conduct a meaningful electoral reform.
v.	Media freedom should be strengthened by amending Article 27 of the Constitution to bring it in line with Article 19 of the ICCPR in order to include freedom to “seek, receive and impart information and ideas of all kinds, regardless of frontiers”. Updated legislation giving greater clarity on the mandates of media regulatory bodies and a clear delineation of responsibility for regulatory oversight of broadcast coverage of elections is also required. This could involve amongst others e.g. a merger between the Broadcasting Commission and the Media Council. An overall media strategy should be put in place, with training for journalists among its priorities.		People's Majlis Media regulating authorities	Electoral reform was not a priority in the domestic political agenda. Interlocutors report no political will to conduct a meaningful electoral reform.
vi.	Greater efforts should be made to promote the participation of women in public life. Domestic law reform is necessary to ensure full equality between the sexes in family law and rules of inheritance, thereby removing one of the barriers to participation of women in public life. Consideration should be given to adopting legislation requiring affirmative action policies within political parties for the promotion of women.		People's Majlis	Adoption of a Gender Equality Law in 2016.



vii.	The Elections Commission should review the operation of the existing complaints and appeals mechanism to ensure effective dispute resolution process.		People's Majlis EC	Electoral reform was not a priority in the domestic political agenda. Interlocutors report no political will to conduct a meaningful electoral reform.
LEGAL FRAMEWORK				
1	Legislation should clearly define the division of competences of the courts, the Elections Commission, the police and the Anti- Corruption Commission during the electoral process as well as other independent institutions.		People's Majlis	Electoral reform was not a priority in the domestic political agenda. Interlocutors report no political will to conduct a meaningful electoral reform.
2	Enact new legislation on minimum requirements for registration & continued operation of political parties.		People's Majlis	Adoption in 2015 of an amendment to the Political Parties' Act, bringing down to 3,000 the required number of registered members.
3	Consider ending discrimination in family laws, including inheritance laws.		People's Majlis	Limited progress by better protecting women in case of divorce.
4	Revise Constitution: Article 9 – that one be a Muslim to be a citizen & vote; Article 73 – that one be a Sunni Muslim citizen to stand for election.		People's Majlis	Electoral reform was not a priority in the domestic political agenda. Interlocutors report no political will to conduct a meaningful electoral reform.
ELECTION ADMINISTRATION				



5	In case of one voter or small number of voters voting for particular constituency in the polling station located outside of their constituency appropriate measures should be taken in order to guarantee the secrecy of vote.		EC	Electoral reform was not a priority in the domestic political agenda. Interlocutors report no political will to conduct a meaningful electoral reform.
6	Consideration could be given to decrease significant variation in the population size of electoral constituencies. Preferably the size of the electoral constituencies should not vary more than 15 per cent in the whole country not only in administrative units.		EC	Electoral reform was not a priority in the domestic political agenda. Interlocutors report no political will to conduct a meaningful electoral reform.
7	The people should have a right to register themselves as voters in electoral constituencies they permanently reside in, in order to be effectively represented by Members of Parliament. The process should be accompanied by an information campaign.		People's Majlis EC	Electoral reform was not a priority in the domestic political agenda. Interlocutors report no political will to conduct a meaningful electoral reform.
8	Greater flexibility is required in the area of invalid ballots to grant discretion at the polling station to ascertain the intent of the voter. If intent is clear on the ballot paper, consideration should be given to including that vote as valid.		EC	Electoral reform was not a priority in the domestic political agenda. Interlocutors report no political will to conduct a meaningful electoral reform.
9	In case a voter mistakenly spoils his/her ballot, there should be a provision to obtain a new ballot. There should be a surplus of additional ballots provided also for voters voting outside their constituencies.		EC	Electoral reform was not a priority in the domestic political agenda. Interlocutors report no political will to



				conduct a meaningful electoral reform.
	VOTER REGISTRATION			
10	To improve the update of the voter register, the process of the display of voter register should be extended so there would be more time for voters to check their data. The process could be accompanied by a massive information campaign reminding voters about their responsibility.		People's Majlis EC	Electoral reform was not a priority in the domestic political agenda. Interlocutors report no political will to conduct a meaningful electoral reform.
	CAMPAIGN ENVIRONMENT			
11	Campaign finance rules need to be overhauled and revised to ensure accountability and transparency in contributions and spending on campaigns of political parties and candidates. An adequate and impartial monitoring framework is also required to provide an appropriate regulatory environment in this area with reasonable donation and spending ceilings, and provisions regulating third party spending and in-kind contributions put in place to ensure a level playing field between candidates.		People's Majlis	Electoral reform was not a priority in the domestic political agenda. Interlocutors report no political will to conduct a meaningful electoral reform.
12	Clearer regulations and an adequate framework for minimising the use of state resources during campaign periods should be introduced. A moratorium on the government members and ruling parties' candidates opening public works should be considered during a campaign period. The civil service should introduce a code of conduct providing for measures to ensure scheduling, finalisation and inauguration of these works is not used instrumentally, by elected officials, for campaign purposes		People's Majlis	Electoral reform was not a priority in the domestic political agenda. Interlocutors report no political will to conduct a meaningful electoral reform.
13	Police and other state agencies in cooperation with EC should prioritize monitoring, investigation and prosecution of all reported cases of vote buying before and after elections.		Police EC	Electoral reform was not a priority in the domestic political agenda. Interlocutors



				report no political will to conduct a meaningful electoral reform.
14	Civil society should be more actively engaged in civic and voter education across the country and a wider range of civil society organisations should be identified that can provide appropriate civic and voter education tools and platforms.		Civil society	Actors report a lack of funding and a focus on other priorities.
ELECTORAL JUSTICE				
15	Review the provision of criminal law dealing with electoral offences, codifying all rules in either a single chapter of a new penal code; or in a new law on electoral offences.		People's Majlis	Electoral reform was not a priority in the domestic political agenda. Interlocutors report no political will to conduct a meaningful electoral reform.
16	Review the operation of the existing complaints & appeals mechanism, considering the introduction of an alternative model.		EC	Electoral reform was not a priority in the domestic political agenda. Interlocutors report no political will to conduct a meaningful electoral reform.
GENDER EQUALITY				
17	Adopt legislation requiring affirmative action policies within political parties, requiring integration of women within party structures and selection of women as candidates. Confer enforcement powers upon the EC.		People's Majlis	Electoral reform was not a priority in the domestic political agenda. Interlocutors report no political will to conduct a meaningful electoral reform.



18	Adopt equality legislation which outlaws both direct and indirect discrimination on the grounds of sex.		People's Majlis	Adoption of the Gender Equality Act in 2016.
MEDIA				
19	Amend Article 27 of the Constitution to bring it in line with Article 19 of the ICCPR.		People's Majlis	Electoral reform was not a priority in the domestic political agenda. Interlocutors report no political will to conduct a meaningful electoral reform.
20	Update legislation – Elections (General) Act 2008; Broadcasting Act (2010) and Media Council Law (2008) – to clarify the mandates of the regulatory bodies and provide a clear delineation of responsibilities for regulatory oversight of broadcast coverage of elections. A merger between the Media Council and the Broadcasting Commission could be considered.		People's Majlis	Electoral reform was not a priority in the domestic political agenda. Interlocutors report no political will to conduct a meaningful electoral reform.
21	Provide training and professional development courses for journalists and managing editors. Technical assistance could be provided to help develop the recently established journalism faculty at the Maldives National University into a centre of excellence offering practical work placements in newsrooms. This could be carried out as part of a wider media strategy aimed at developing a pluralistic and independent media sector producing high-quality content on a wide variety of issues (not just politics), including social, environmental, health, arts and education issues.		People's Majlis Broadcasting Commission Media Council Maldives Journalist Association; Maldives National University (EU support)	To the EFM knowledge, there has not been any EU technical assistance on this topic.



22	Use of the Broadcasting Commission's licensing system to promote diversity on the airwaves and foster media pluralism. Efforts should be made to encourage and facilitate the development of community/associative broadcasters and websites.		Media in general	Since 2014 new websites and blogs have developed.
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