

# **EUROPEAN PARLIAMENT**

**Account of the mission  
to observe the Parliamentary and Provincial Assembly elections  
in Pakistan**

**10 October 2002**

26 October 2002

## INTRODUCTION

At its meeting on 4 September 2002, the Conference of Presidents of the European Parliament, in response to a letter from Mr Brok containing the recommendation of the Election Coordination Group, decided to send a mission to observe the parliamentary and provincial assembly elections to be held in Pakistan on 10 October 2002.

At its meeting on 19 September 2002 the Conference of Presidents held an exchange of views with Mr John Cushnahan MEP, EU Chief Observer for the Pakistan elections, who explained that the Government of Pakistan had not signed a Memorandum of Understanding with the EU on the Election Observation Mission (this would have covered, inter alia, security arrangements). The Conference of Presidents decided to ask the Pakistani authorities "to provide written guarantees concerning the security of the members of a possible official delegation and accompanying staff and that in the absence of such guarantees no official delegation should be dispatched to Pakistan". In a letter to President Cox dated 23 September 2002 the Ambassador of Pakistan to the European Union wrote that "the Government of Pakistan would extend usual courtesies, particularly security". It was accordingly decided to send the mission to Pakistan.

The delegation to observe the elections was to have been composed of 5 members of the European Parliament appointed by the political groups on the basis of the rolling d'Hondt system. In the event, the delegation that went to Pakistan consisted of three members, Mrs Lisbeth Grönfeldt Bergman, Mrs Luisa Morgantini and Mr Marcelino Oreja Arburúra. At a preliminary meeting in Brussels on 2 October 2002, Mrs Grönfeldt Bergman was appointed leader of the delegation.

The Delegation was accompanied by Mr Silva Maia of the EPP Group secretariat and Mr. Rose of the European Parliament secretariat.

## **ARRIVALS**

Mrs Morgantini arrived in Islamabad on 7 October 2002 at 08.20 hrs on flight PI 356 from Lahore. Mrs Grönfeldt Bergman arrived in Islamabad on 7 October 2002 at 08.55 hrs on flight PI 300 from Karachi, and Mr Oreja arrived in Islamabad on 9 October 2002 at 02.20 hrs on flight EK 614 from Dubai.

## **PROGRAMME OF THE MISSION**

### **Monday, 7 October 2002**

14.00 hrs Briefing sessions for the European Parliament Delegation in the Marriott Hotel, Islamabad, by

- Mr John Cushnahan, Chief Observer, on the background to the elections and progress so far.
- Mr Oskar Lehner, Deputy Chief Observer, on the work of the election observation mission and on the role of the EP Delegation.
- Mr Julian Cheasley, Security Adviser, on the security situation and security matters.
- Mr Plamen Tonchev, Political and Legal Adviser, on the historical background and the political scene.
- Mr Staffan Darnolf, Election Expert, on the organisation of the elections and the situation regarding the national and provincial assemblies, as well as information regarding the observation procedures.
- Mr Ziauddin, Resident Editor of Dawn, one of the principal English language newspapers in Pakistan, on the political landscape and the political parties contesting the elections.

### **Tuesday 8 October 2002**

8.00 hrs - Departure by air for Lahore.

10.00 hrs - Briefing with local long-term Observers (LTOs) and Short Term Observers (STOs) in the Avari Hotel, Lahore.

- Briefing by Mrs Regina Tauschek, LTO, on the situation in Lahore and in Punjab in general regarding the political parties, the lead-up to the elections, and the campaign so far.

11.00 hrs Meeting with Lieutenant General (retired) Khalid Maqbool, Governor of Punjab, Pakistan's largest and most populous province. Also participating were senior provincial government and police officials.

13.15 hrs Working Luncheon in the Avari Hotel with Mr Nadjam Sethi, Editor of the Daily Times, Mr Achmed Rashid, journalist and author of "Taliban" and "Jihad", Mr Arif Nizami, Editor of the Nation, and Mr Mayed Ali, Chief New Editor of the News.

15.30 hrs Meeting with Mr Qasim Zia, President of the Pakistan People's Party - Parliamentarian (PPP-P) (Mrs Bhutto's Party) for the Punjab.

A meeting originally arranged with the PML-Q (Pakistan Muslim League -Quaid-e-Azam (PLM-Q) (Party supporting General Musharraf) was cancelled by that party on the grounds that the local leaders of the party were too busy in the immediate lead-up to the election.

17.00 hrs Meeting with Mr Akram Zaki, Vice-President of the Pakistan Muslim League - Nawaz (PML-N) - (Mr Nawaz Sharif's Party).

20.20 hrs Departure by air for Islamabad.

### **Wednesday 9 October 2002**

The delegation divided into three teams.

Mrs Morgantini with a Danish STO went by road to Peshawar, to observe the elections in North West Frontier Province.

Mr Oreja with Mr Silva Maia went by road to Rawalpindi, to observe the elections in that part of Punjab Province.

Mrs Grönfeldt Bergman with Mr Rose stayed in Islamabad to observe the elections in Islamabad rural and urban districts.

All members of the EP delegation were briefed by the core team in Islamabad, and issued with equipment and the relevant reporting forms. The separate parts of the delegation were subsequently briefed on the situation in their areas of observation by the local LTOs.

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#### **Thursday 10 October 2002 - polling day**

The three parts of the EP delegation observed the election as follows :

Mrs Grönfeldt Bergman observed the election in the rural and urban constituencies of the Islamabad Federal Capital area.

Mr Oreja observed the election in Rawalpindi and the surrounding area of Punjab Province.

Mrs Morgantini observed the election in Peshawar and the surrounding area of North West Frontier Province.

Each part of the delegation observed the count in a polling station. In Islamabad the count was observed in Federal Government Junior Model School F-10/4. The part of the delegation in Islamabad observed the constituency count for constituencies NA 48 and NA 49, when the results from the different polling stations were aggregated, in the Islamabad Aggregation Centre on the night of 10 to 11 October 2002.

#### **Friday 11 October 2002**

Morning - Members of the delegation in Islamabad observed the centralising of results from all constituencies throughout the country in the Central Results Centre in the Election Commission Building, Islamabad.

During the course of the day, the parts of the delegation that had observed the elections in Rawalpindi and Peshawar returned to Islamabad.

14.15 hrs Commonwealth Press Conference, Marriott Hotel, Islamabad.

The part of the delegation remaining in Islamabad attended a press conference given by Mr Tan Sri Musa Hitam, Chairman of the Commonwealth Observer Group, at which the Commonwealth Group's Preliminary Statement was presented.

### **Saturday 12 October 2002**

08.30 hrs Debriefing of EU observers, Marriott Hotel.

- Initial debriefing by Provinces, followed by general debriefing.

14.00 hrs Consultation of the EP Delegation by Mr Cushnahan, Chief Observer, on his Preliminary Statement on the elections.

15.15 hrs Marriott Hotel, Press Conference and issuing of Preliminary Statement by Mr Cushnahan, Chief Observer.

### **Sunday 13 October 2002**

Mrs Grönfeldt Bergman and Mr Oreja, as well as the accompanying officials, left Islamabad on flight EK 615 to Dubai.

### **Monday 14 October 2002**

Mrs Morgantini left Islamabad at 09.00 hrs on a special UN special flight to Kabul.

## **BACKGROUND TO THE ELECTIONS**

General Musharraf, Chief of Staff of the Army, came to power in a bloodless military coup on 12 October 1999, when he overthrew the democratically elected government of Prime Minister Nawaz Sharif, suspended the national and provincial assemblies and put the 1973 constitution in abeyance. Initially he took the title of Chief Executive, and on 20 June 2001 was sworn in as President of Pakistan by the Chief Justice (effectively self-appointment). The military take-over was validated by the Supreme Court on the basis of "doctrine of necessity" with the important proviso that democracy should be restored within a three-year time limit, i.e. by October 2002.

In many ways President Musharraf's coup mirrors similar coups in 1958, 1969, 1977 and 1988.

On 30 April 2002 President Musharraf held a referendum in which he asked the Pakistani people to confer the Presidency on him for five years. According to the Election Commission of Pakistan (ECP) 99.47% of voters approved the proposal. However Pakistani opposition parties, the Human Rights Commission of Pakistan and much of the press claimed that the referendum had been marred by widespread irregularities including vote rigging, stuffing of ballot boxes, and pressure on government employees to vote yes. The turnout was widely contested. The government claimed 56% (high for Pakistan) while elements in the opposition gave a figure of as low as 5%.

The referendum was not condemned by world powers, including the EU, despite the allegations of irregularity. Only the European Parliament expressed disquiet by blocking approval of the trade and cooperation agreement with Pakistan. This benign approach by the international community is believed to be a result of President Musharraf's decision of 13 September 2001 to cooperate with the American campaign against the Al Qaeda network and the Taliban in the wake of the attacks on New York and Washington on 11 September 2001 (despite the fact that the Taliban had been largely supported by Pakistan up to that date).

On 21 August 2002 General Musharraf issued "Legal Framework Order 2002" (LFO), decreeing 29 amendments to the Constitution, validating all his Presidential orders, Chief Executive's Orders and other laws made subsequent to the military take-over. The LFO declared that these acts were valid notwithstanding any judgement of any Court, and that they cannot be called into

question before any Court. General Musharraf declared in a speech following the promulgation of the LFO that it did not need parliamentary ratification.

The LFO enacts a number of changes to the basic law and the constitution. It provides that

- General Musharraf shall be President of Pakistan for five years from a date that he would determine, based on his unilateral decision, rather than on existing constitutional provisions.
- The President is empowered to appoint the Chairman of the Joint Chiefs of Staff Committee, as well as the Chiefs of the Army, Navy and Air Force, without any form of consultation. (This effectively means that, as Musharraf is himself a military leader, the army is not subject of any form of civilian control).
- A National Security Council (NSC) is created as a forum for consultation "on a range of strategic matters pertaining to the sovereignty, integrity and security of the state; and the matters relating to democracy, governance and inter-provincial harmony". The Chairman of the Joint Chiefs of Staff Committee and the Chiefs of Staff of the Army, Navy and Air Force, as well as civilians, sit on the NSC, thereby establishing a formal constitutional role for the military in the governance of the country.
- The President is empowered to dismiss Parliament at his initiative.
- Provincial governors (appointed by the President) are empowered to dismiss provincial assemblies on their own initiative.
- The President is empowered to make further changes to the constitution "as he may deem fit".
- The President is empowered to "revive all or part of the constitution" as he deems fit.
- The President may treat any constitutionally required consultation with the Prime Minister as non-binding, except with regard to the appointment of judges of the Supreme and High Courts.

Thus several aspects of the LFO are fundamentally undemocratic.

## **ORGANISATION OF THE ELECTIONS**

Pursuant to the Election Commission Order (Chief Executive's Order No 1 of 2002), the Election Commission of Pakistan (ECP), headed by a Chief Election Commissioner, has the power to administer the entire electoral process, including the right to overrule any challenge to

its decisions (article 7 (c)). The Chief Election Commissioner, Mr Justice Irshad Hasan Khan, has been criticised by the opposition parties on the grounds that he is close to President Musharraf. It was he who, as a Supreme Court Judge, endorsed General Musharraf's coup and gave the regime three years to transfer power to a democratically elected government. The other four members of the ECP are appointed by the President following consultation with the Chief Justice of the High Court and with the Election Commissioner. The ECP has a secretariat in Islamabad and Provincial Election Commissioners in each of the four provinces. There are deputy election commissioners at all divisional headquarters, and assistant election commissioners at district level.

Updating the electoral roll is the responsibility of a body known as NADRA, which carried out this task on behalf of the ECP. Registration ended in February 2002. All voters were to receive new computerised identity cards. However this proved to be impossible in the time available. Only some 10 million of the new cards were issued, though the number of voters on the register comes to some 72 million (from 56 million in 1997, much of the difference being made up by the fact that the voting age has been lowered to 18). Consequently most voters had to use the old, less secure, identity cards. Furthermore almost all young people between 18 and 21 did not have identity cards, and were consequently not able to vote. It would appear that NADRA was not up to the task imposed on it by President Musharraf when he lowered the voting age to 18.

In order to comply with the Supreme Court ruling, President Musharraf announced on 10 July 2002, in conformity with his "road map for a transition to democracy" of August 2001, that Parliamentary and Provincial Assembly elections should be held on 10 October 2002.

The LFO laid down that there would be 342 seats in the National Assembly, including seats reserved for women and minorities (non Muslims). In the Provincial Assemblies there would also be seats for women and minorities, as well as general seats.

The electoral system is based on a joint electorate, including minorities. However it appears that Ahmadis were put on a separate voters list.

The general seats are filled on a first-past-the-post basis, with single member constituencies. In the National Assembly the women's seats are distributed on a proportional basis according to the

number of general seats each party obtains in the National Assembly. The minority seats are distributed in the same way as the women seats. For both of these, a 5% threshold applies. Parties with less than 5% of the seats are not eligible to fill women's or minority seats.

The Senate is to be elected on 12 November 2002. Senators from the provinces are elected by members of the Provincial Assemblies, and from the Federal Capital by members of the National Assembly. Thus Senate elections cannot be held until such time as the elections to the National Assembly and the Provincial Assemblies are complete, members have taken the oath, and speakers and deputy speakers have been elected. The Senate would consist of 14 general seats, 4 seats for women and 4 seats for technocrats from each of the 4 Provinces, as well as 8 general seats from the Federally Administered Tribal Areas (FATAs), and 2 general seats, 1 seat for a woman and 1 seat for a technocrat from the Islamabad Federal Capital Area (IFC).

Most of the some 50 000 polling stations throughout the country were in schools. In most cases women and men vote in separate rooms in the same school. In the women's stations all the officials, including the party polling agents, are women.

It was reported that in some of the tribal areas women's polling stations did not open, as the local tribal rulers decreed, contrary to the intentions of the Federal Government, that women were not permitted to vote, and that a fine would be imposed on those who did so.

The requirements for candidature were particularly restrictive. Candidates for political office, as well as having the usual requirements concerning age and good character, must not be in debt. This includes default on bank loans or even unpaid utility bills by the candidates or by close relatives of the candidates, up to a small amount (approximately €155). (While in some countries, including the UK and Ireland, outstanding debts can be regarded as grounds for disqualification of candidacy, Pakistan appears to be the only country where candidates can be disqualified for unpaid utility bills). Any candidate that failed to appear in court on a pending charge under article 63 (P) of the amended 1973 Constitution may not be a candidate. This is widely seen as targeting former Prime Minister Benazir Bhutto. No politician who has served two terms as Prime Minister or as a Provincial Chief Minister may take those jobs again. All candidates must have at least a BA degree or an equivalent qualification from a Madrassah.

This last restriction is particularly worrying as it prevents some 96% of the population of Pakistan from standing for election.

Shortly before the deadline for nomination of candidates had expired, the ECP announced a two day extension. This was made necessary because of difficulties in processing applications for registration of candidature due to the new strict requirements, including the education requirement. It is understood that some 10% of all applications were rejected, with higher figures in the FATAs and Balochistan.

### **THE ELECTION CAMPAIGN**

The ECP's code of conduct permits parties to hold rallies and processions. Processions are a traditional part of Pakistani election campaigning, with supporters walking behind candidates to a meeting point. However, according to new rules issued by the government on 1 September, parties were not allowed to hold processions, and rallies and meetings could only be held at specific places designated by provincial and district authorities.

Furthermore, on 14 September, the Commissioner of Islamabad and the Magistrate of Islamabad banned all election posters and political rallies in the capital territory. (Though these are permissible under ECP rules).

These restrictions severely limited the possibility of normal campaigning, notably in Islamabad.

### **ACCESS TO THE MEDIA**

On 8 August the ECP published a Code of Conduct for the electronic media, aimed at ensuring that election coverage by the state broadcasting media was fair and unbiased.

According to the EU-EOM, the main evening news (21.00 hrs) on State television (PTV1) devoted 6 hours and 20 minutes to election related news during the period from 15 August to 9 October 2002. Coverage of the main parties was as follows :

PLM-Q - 44 minutes, MMA - 36 minutes, PPP-P - 29 minutes, GNA - 13 minutes, PLM(N) - 13 minutes, PTI - 10 minutes, MQM - 8 minutes.

PTV refused to carry advertisements containing pictures of Mrs Benazir Bhutto or her father, Zulfikar Ali Bhutto, on the grounds that they had been convicted in the Courts.

There is a high degree of press freedom in Pakistan. Newspapers and magazines express diverse views freely. However, given the low level of literacy in the country, the electronic media, particularly radio, is the most significant means of diffusing information and influencing the population.

On the evening of 9 October, just before the election, President Musharraf spoke to the nation. This broadcast contained sweeping criticism of previous civilian rule by both Nawaz Sharif and Benazir Bhutto, and generally condemned the former, democratically elected, regimes. Effectively this could be seen as an attack on the PLM(N) and PPP-P parties (the parties of the former Prime Ministers).

The EU-EOM received a large number of complaints, accusing the authorities of effectively supporting the pro-government "King's Parties", the PML-Q and its allies. There were numerous accusations to the effect that local Nazims (roughly the equivalent of mayors) provided pro-government candidates with transport (local government vehicles) and on occasions the use of local government premises.

Furthermore there were accusations that voters were cajoled into voting for "King's Party" candidates by promises of development projects conditional on the area voting "the right way". There were also allegations of grants being promised in return for votes.

## **THE PRINCIPAL POLITICAL PARTIES**

78 parties obtained symbols for contesting the elections (each party needs a symbol, to enable identification by illiterate voters (for example the PLM-Q has a bicycle, the PPP-P a tiger, the MMA a book, and Imran Khan's PTI a cricket bat).

In general in Pakistan parties are distinguished more by the personalities of their leaders than by ideological differences.

The principal political parties are :

Pakistan Muslim League - Quaid-e-Azam (PLM-Q), frequently known as the King's Party, formed out of a split in the PML. The PLM-Q is very close to President Musharraf, and is clearly favoured by the government.

Pakistan People's Party - Parliamentary - (PPP-P). This is the Bhutto party, currently led by Mrs Benazir Bhutto who, though in exile in London, appears on most of the party posters alongside or behind the local candidate. This is a well organised party, effective at local level.

Pakistan Muslim League (Nawaz) (PML(N)) is the part of the PML that remained loyal to Nawaz Sharif when the party split following the overthrow of Nawaz Sharif by General Musharraf, and Nawaz's sentencing for tax evasion. Nawaz Sharif is at present in exile in Saudi Arabia. His brother Shabaz Sharif, now leader of the party, was disqualified from standing for election. The legal grounds for refusing his candidature were unclear.

Muttahide Qaumi Movement (MQM) was founded and led by Atlat Hussain, and represented the Mohajirs, Indian Muslims who fled to Pakistan in 1947 and the succeeding years. This party is most influential in Sindh, where most Mohajirs live.

The Grand National Alliance (GNA) is a pro-government alliance bringing together the National People's Party, the Millat Party (see below), the Balochistan National Party Awami and some small parties. It works in close relationship with the PLM-Q, pro-government.

The Millat Party, led by former President Sardar Farooq Ahmad Khan Leghari, is an off-shoot of the PPP, but it is now close to President Musharraf.

The Muttahida Majlis-e-Amal (MMA) is a coalition of 6 religious parties, including Jamaat-i-Islami (the party of Islam). This is a right-wing, largely middle class, religious movement. It is

strongly opposed to the PPP and has its main strength in the towns and cities. It is very anti American, and condemns President Musharraf for his support of America's attacks on the Taliban in Afghanistan.

Pakistan Tehrik-e-Insaf (PTI). The PTI was founded in 1997 as a "third force" by the well-known cricketer Imran Khan. It failed to win any seats in the 1997 general elections. It has little grassroots infrastructure but has some support amongst young people. It believes that President Musharraf has too much power, and particularly opposes the President's power to remove the Prime Minister.

There are a large number of other smaller parties.

## **ELECTION OBSERVATION**

The Pakistan elections were observed by teams from the EU, the Commonwealth, Japan and the Bangkok-based South Asian Network for Free Elections.

The most important and the largest team came from the EU. The European Union initially intended to deploy 164 observers. However it was decided to reduce this number as the Pakistani authorities would not sign a memorandum of understanding with the EU which would, inter alia, guarantee security.

Finally, following contacts between the EU Chief Observer, his staff and the 4 Provincial Governors, it was arranged that security would be provided by the Provinces through the provincial police. In the end, on polling day, the army also provided security escorts.

The EU sent 88 observers in three waves (instead of the intended 164). Unusually, there were more long-term than short-term observers in Pakistan.

In the event, the EU observers obtained accreditation without difficulty.

## **CONDUCT OF THE ELECTION**

On polling day the election was generally well conducted. The EU-EOM noted some irregularities, many of which were believed to be due more to inefficiency than to an attempt to misuse the system.

There were some reports of intimidation, though the EP delegation did not see any such attempts.

Not all polling stations were well set up. In two polling stations observed by the delegation in the rural areas around Islamabad, there were no proper facilities for secret voting. In fact in one of these cases voters marked their ballot papers on a table in full view of anybody looking. Both of these irregularities were observed in female polling stations. Some of the EU observers felt that women in charge of polling stations found it harder to impose their will than did men, as women generally occupy a subservient position in Pakistani society, particularly in the rural areas.

Generally voters with the older forms of identity (most had not received the new computerised identity cards) were permitted to vote. However there were some problems with the electoral roll, and on occasions citizens with valid identity papers whose names did not appear on the roll were not allowed to vote.

## **RESULTS OF THE ELECTIONS**

According to the final results published by the ECP, in the National Assembly election the PML won 77 general seats and is the largest party, followed by the PPP-P with 63 seats. The MMA religious party alliance won 45 seats (in 1997 the religious parties won only 2 seats). The PML(N) was reduced to 14 seats. The MQM and the National Alliance obtained 13 seats each. Small parties, the PML(F) and the PML(J) won 4 and 2 seats respectively. 7 small parties, including Imran Khan's TI, got 1 seat each, and 29 Independents were elected (on 8 October the government amended the LFO to allow independent candidates to join parties after the election). The ECP ordered repolling in three constituencies following complaints of irregularity that were

upheld. The National Assembly will be complete once the seats reserved for women and minority candidates are allotted on the basis of the percentages of seats obtained by the parties.

In the provincial elections, in Punjab, the largest province, the PLM-Q won 128 seats, the PPP-P obtained 63 seats and PML(N) took 40 seats.

In Sindh the PPP won 51 seats, the MQM 31 seats and the National Alliance 12.

In North West Frontier Province the MMA took 48 seats and became, for the first time, the most important party in a province.

In Balochistan the MMA won 13 seats, ahead of the PLM-Q with 10 seats and the National Alliance with 5 seats.

The remarkably good showing of the MMA, with 45 seats nation-wide, is highly significant. This alliance campaigned against support for American policies in the region, and in favour of a conservative, right-wing, religious agenda. It obviously touched a chord in the voters, notably in NWF Province and Balochistan.

It now remains to be seen how the balance of forces in the National Assembly can be aligned to form a government.

## **THE EUEOM's CONCLUSIONS**

On 12 October the EU Chief Observer, Mr John Cushnahan, MEP, issued the EU-EOM's preliminary statement. The EP delegation was consulted on this statement before it was issued, and agreed with its contents. The text of this statement is annexed.

The EU-EOM observers reported that most polling stations visited had received all the necessary election material and had opened on time.

The EU-EOM was concerned at the serious lack of voter education activities in the provinces.

The EU-EOM statement indicated that the Election Commission displayed a number of shortcomings at both national and provincial levels, including its failure "to curb the authorities' misuse of state resources in favour of political parties, in particular, but not exclusively for the PML(QA)".

The statement also criticised the banning of processions and the restrictions in Islamabad on the use of posters. Support for pro-government candidates by local authorities (Nazims) and senior government officials was also condemned.

It was pointed out that the Legal Framework Order appeared to weaken the National and Provincial Assemblies, and could lead to concentration of power in the hands of the President, who will have the power to dismiss National and Provincial Assemblies. The EUEOM stated that the LFO institutionalises the role of the military through the National Security Council. Furthermore the LFO alters the salient features of the 1973 Constitution from a parliamentary to a presidential system. Qualification criteria for the nomination of candidates effectively exclude the leaders of two of the main parties, while the "BA or equivalent requirement" means that 96% of the population cannot be candidates. In fact President Musharraf himself stated that almost 41% of the "traditional faces" have vanished from the National Assembly because of the graduation condition.

In its conclusion, the EU-EOM statement pointed out that "the holding of a general election does not of itself guarantee the establishment of democracy. True democracy must ultimately lead to good governance. Successive civilian and military governments in Pakistan have failed in this regard".

In a statement quoted by the Pakistani Newspaper "Dawn" on 15 October, President Musharraf attacked the EU-EOM Preliminary Statement, stating that "Mr Cushman ..... had no business interfering in the international affairs of Pakistan". President Musharraf repeated that the elections were "free, fair and transparent".

On 15 October the Council Presidency issued a declaration on behalf of the EU on the general elections in Pakistan (13081/02 - Presse 325). This declaration states that "The European Union

welcomes the completion of multi-party National and Provincial elections in Pakistan. The elections are a step in the gradual transition to full democracy in Pakistan". It continues "The European Union commends the Pakistani authorities for their cooperation with the EU Observer Mission and for assuring a widely secure and violence-free election day. However, the European Union is concerned about reports of manipulation and encourages the Election Commission to follow up on complaints about the election process".

## **THE E.P. DELEGATION'S CONCLUSIONS**

The European Parliament delegation concurs with the EU-EOM Preliminary Statement, on which it was consulted prior to its being issued.

The European Parliament Delegation is of the opinion that polling day passed off well, and that the polling stations and counts that members of the delegation observed were generally correct. There were a number of shortcomings, notably with regard to the secrecy of voting in some polling stations, but it was felt that these were due more to lax procedures than to malicious intent.

Organisation was good. Most polling stations were correctly equipped and opened on time. If voting premises were sometimes very small, this was attributed to the difficulty in finding large enough rooms in village schools.

Some members of the delegation felt that the principle of separate voting facilities for men and women was not entirely negative as it encouraged women to participate in the political process as polling station officials and party polling agents (though, it appeared, many of the latter were relatives of male polling agents and male party activists).

The Delegation deplores the serious flaws that occurred in the weeks preceding polling day, notably with regard to:

- the undemocratic elements in the Legal Framework Order that institutionalised the role of the military in politics, and reinforced the president's predominance over parliament;

- the requirements for candidacy, notably the "B.A. requirement" which meant that some 96% of the population could not stand for the National or Provincial Assemblies;
- the exclusion of such major political figures as Benazir Bhutto and Nawaz Sharif on questionable legal grounds;
- the partisan activities of many elements in local government, notably Nazims, in favour of the parties supporting President Musharraf, and particularly the PML-Q.

In conclusion, the European Parliament delegation congratulates the Pakistani Authorities on a well-organised and peaceful polling day, and on, as far as it could see, a fair count. It has, however, serious misgivings regarding the authorities' activities in the lead-up to the election, and can consequently not qualify the entire electoral process as free and fair.

The European Parliament delegation hopes that the elections will give Pakistan the stable and representative government that it deserves and needs, and that the executive branch will be restrained in invoking its prerogatives over the legislative institutions.

The European Parliament Delegation sincerely hopes that the newly elected National Assembly, Provincial Assemblies, and the soon to be elected Senate, will work together for the benefit of all the people of Pakistan.

## **European Union's Election Observation Mission to Pakistan 2002**

### **Preliminary Statement**

**October 12, 2002**

The European Union's Election Observation Mission to Pakistan, led by Chief Observer, Mr John Cushnahan MEP, on 12 October issues this statement of preliminary findings.

The EU Mission was established following a verbal invitation extended by President Musharraf to EU External Relations Commissioner Mr Chris Patten to send an EU Observation Team to observe the 10 October General Election.

Although the Government of Pakistan did not sign a Memorandum of Understanding with the European Union, the EUEOM was not prevented from discharging its task.

### **Statistical Representation of Teams and Coverage**

This statement is based on the observation of nine Core Team members for ten weeks, 43 Long Term Observers deployed to thirteen different locations in all four provinces for three to five weeks, 30 Short Term Observers deployed for up to ten days and a delegation of Members of the European Parliament. On Election Day, a total of 88 mission members were involved in observing the polling, counting of votes as well as the aggregation of results.

The European Union Election Observation Mission was guided by seven criteria in reaching conclusions on the election process. These are the findings:

#### **1. The degree of impartiality shown by the relevant Election Commission and election officials.**

The Election Commission of Pakistan (ECP) took a number of positive steps to improve the electoral process. The allocation of election symbols was conducted in an open manner and the extension of the nomination period enhanced parties' abilities to field candidates for the forthcoming elections. For the very first time, the Election Commission also announced that copies of the results should be given to party agents in the polling stations immediately following the count, which improved transparency and provided an opportunity to verify the counting process where party agents were present.

Although all these actions are commendable, the Election Commission displayed a number of shortcomings at both national and provincial levels. One of the more worrying developments was the ECP's failure to curb the authorities' misuse of state resources in favour of political parties, in particular, but not exclusively, for the PML(QA). The Election Commission also established a central Grievance Cell, but it was de facto not operational. Instead the Chief Election Commissioner merely issued instructions ordering parties and government officials to adhere to the legal framework and the Code of Conduct for Political Parties, something they continued to flout with impunity.

The failure by the ECP to protect an area clearly within its mandate from interference by state authorities cast serious doubts over the ECP's independence. This became apparent when both President Musharraf and the Commissioner of Islamabad imposed serious restrictions on campaign activities which clearly ran contrary to the Code of Conduct for Political Parties issued by the Election Commission. The ECP subsequently failed to take any action.

The inappropriate use of actual election symbols on mock ballot papers in the ECP's public information video, broadcast on national television and used during training activities of polling staff, was of concern to the EUEOM. The most prominent symbol used was that of the PML (QA).

## **2. The degree of freedom of political parties and candidates to organise, move, assemble and express their views publicly.**

In the absence of normal political activities for three years, a comprehensive election campaign was necessary. The large number of new parties and candidates further underlined this point. The government's decision to lift the ban on public political party activities less than forty days before polling day failed to meet this need. Furthermore, the fact that parties were busy nominating candidates meant that they could not fully engage themselves for an additional two weeks, which effectively reduced the campaign period to a mere twenty-three days.

The Election Commission's Code of Conduct for Political Parties, issued prior to the commencement of the campaign, allowed processions which traditionally are one of the parties' most important means of campaigning. However, the government subsequently banned such processions and this is a serious restriction of the parties' abilities to campaign.

The Commissioner of Islamabad and the Magistrate of Islamabad on 14 September further curtailed parties' abilities to campaign by imposing a ban on political rallies and the use of posters in Islamabad until polling day. The consequence of these measures was that parties had to reduce their activities to corner meetings and house-to-house campaign activities.

The limited time allocated to electioneering and the many restrictions imposed seriously hampered the abilities of parties and candidates to campaign and contributed to the lacklustre pre-polling period. This is of grave concern to the EUEOM as freedom of assembly and freedom of speech are essential components of a democratic election contest.

## **3. The fairness of access to state resources made available for the election.**

The EUEOM recorded two main forms of misuse of state resources, namely:

Misuse of public infrastructure (buildings, vehicles, etc.) and;  
Pledges about future development projects made within the framework of campaigning activities.

The EUEOM has solid evidence to believe that public authorities, from the local administration (Nazims) up to senior levels of governance, were actively involved in partisan electioneering. This appeared to be a pattern throughout the country. On a number of occasions, state officials and Nazims made public statements in support of certain candidates or against other candidates. The "beneficiaries" of this support were from several political parties, mostly the PML (QA)

and, to a lesser extent, the SDA and the GNA. Some PPP-P candidates, predominantly in Sindh, also appeared to benefit from the involvement of public authorities in campaigning.

All these actions contravene the provisions of section 92 of the Representation of the People Act, 1976, as well as a number of Orders of the Election Commission of Pakistan, notably the one issued on 16 September 2002. It should be stressed that the penalties under the above-mentioned legislation extend to two years imprisonment.

#### **4. The fairness of access for political parties and candidates to the media, in particular the State media.**

The 9 p.m. Khabarnama television news on state-controlled television (PTV1) devoted a total of six hours and 20 minutes to election-related news during the EUEOM monitoring period, 15 August to 9 October. The duration of coverage for the main parties was as follows: PML (QA) 44 minutes; MMA 36 minutes; PPPP 29 minutes; GNA 13 minutes; PML (N) 13 minutes; PTI 10 minutes; MQM 8 minutes.

The Election Commission on 8 August 2002 issued a Code of Conduct for the Electronic Media, aimed at ensuring that election coverage by the state broadcast media was fair, balanced and unbiased in favour of any political party. On foot of media reports of a media monitoring project which showed unbalanced PTV news coverage of political parties, the ECP on 25 September called for a report from PTV, which it found satisfactory. The EUEOM regrets that the ECP did not take more proactive steps on this issue.

The EUEOM media monitoring found that most state television news coverage of political parties' activities was neutral in tone. However the main televised news broadcasts consistently promoted the governments' views on election-related activities. Controversial issues concerning the authorities were either downplayed or presented in a largely one-sided manner, with analysis and criticism of the constitutional amendments visibly absent. Broadcasts containing dissent or criticism of the authorities were the exception rather than the rule. The administration was often given free reign on state television to criticise the behaviour of past political rulers, including President Musharraf's inappropriate eve-of-election televised address to the nation.

The refusal of PTV's Censor Board to carry advertisements containing images of Ms Benazir Bhutto and her late father on the basis that its policy was not to project persons convicted by courts was questionable, particularly as PTV had earlier shown footage of both individuals in news reports.

Televised current affairs programmes appeared more balanced and a special Election Hour programme in which the main political parties were allocated equal time to discuss their manifestos was a commendable development.

Newspapers and magazines in general exhibited a diversity of views, with forthright and varied comment, analysis and editorials. Political parties' activities as well as the actions of the government were given extensive coverage in the print media.

#### **5. The manner in which registration of voters is conducted.**

The completeness and accuracy of the voters' register were in doubt prior to the elections. The EUEOM teams reported that in a significant number of polling stations visited some voters were turned away because their names could not be found on the register. This could either have been due to the omission of names from the voters' register or the fact that voters may have gone to the wrong polling stations. Furthermore, as the current electoral system is based on a joint electorate, there is no reason why the Ahmadis should be on a separate voters' list.

Stakeholders also expressed serious concerns regarding the availability of the ID card necessary to vote. The EUEOM observers reported a few attempts to vote without an ID card, or with a photocopy of one. However, NADRA officials informed our observers that massive numbers of ID cards were never issued, in particular in the NWFP. This could have contributed to the low voter turnout.

#### **6. Any other issue concerning the essential freedom and fairness of the election.**

A fundamental prerequisite for a democratic election is that it should be held in a conducive legal and political environment aimed at motivating voters and producing fair results. The EUEOM welcomes some elements of the new legal framework, namely the reduction of voters' age from 21 to 18, the reserved seats for women in the National and Provincial Assemblies and the introduction of a joint electorate.

However, other aspects of the recently promulgated Legal Framework Order

Seem to weaken the National and Provincial Assemblies and could lead to the concentration of power in the hands of a single individual, who can dismiss elected governments.

Institutionalise the role of the military in the governance of the country through the National Security Council, which could subordinate civilian governments to military control.

Overstep the limits set by the Judgement of the Supreme Court (12 May 2000), in that it alters the "salient features of the 1973 Constitution" from a parliamentary one to a presidential one.

Introduce new qualification criteria for the nomination of candidates, some of which are not in accordance with international standards or are clearly targeting specific prominent politicians.

In particular, the requirement for candidates to have BA degrees deprives some 96% of Pakistan's citizens of the right to run for office and dilutes the representative nature of the country's democracy (Article 21, Universal Declaration of Human Rights). The implementation of other criteria, notably the provision that loan defaulters and convicts could not contest the election, was marked by a lack of uniformity. Last but not least, there are many indications that the disqualification of prominent politicians from the elections came about as a result of a government strategy. It should be noted that President Musharraf himself stated on the eve of the election (9 October 2002) that "almost 41% of the traditional faces have vanished due to the graduation condition". Furthermore, the person-specific provisions used against Ms Benazir Bhutto and Mr Nawaz Sharif were based on questionable legal grounds and clearly had a negative impact on the overall electoral process.

Only two days prior to polling day the government amended the Legal Framework Order 2002 to allow independent candidates to join political parties after the elections. It also introduced provisions for the disqualification of candidates, once elected, whose nominations had previously been accepted as valid. Altering the electoral system so close to polling day could have confused the electorate. Independent candidates had no possibility to clarify their status to

the voters as the moratorium on campaign activities came into force only hours after the amendment was announced.

## **7. The conduct of polling and counting of votes.**

The EUEOM observers reported that most polling stations visited received all the necessary election material and opened on time. However, reports were also received that in a number of the visited polling stations the secrecy of the vote was compromised. Additionally, in some polling stations the staff only sporadically checked whether voters already had ink on their fingers prior to issuing them with a ballot paper. These shortcomings appeared to be nothing more than the consequence of inadequate training and administrative arrangements. In spite of these shortcomings, the overall impression was that the training of staff seemed to have paid dividends. The EUEOM was impressed by the dedication and commitment of polling station staff in discharging their duties under often-difficult conditions.

The EUEOM was concerned at the almost complete lack of voter education activities carried out by the ECP in the provinces. Centrally, the Election Commission produced a voter education video broadcast on national television and placed public information advertisements in the newspapers and on radio and television urging voters to exercise their franchise. Even though the UNDP and others organised a civil society-based voter education campaign, this could not compensate for the inadequate effort of the ECP.

The aggregation of votes displayed a number of shortcomings due to inadequate training of the returning officers and the lack of adequate facilities. This denied party agents the opportunity to follow the aggregation of results. However, it is important to add that in many cases party agents were not present to follow the aggregation process.

## **Conclusion**

The holding of a general election does not of itself guarantee the establishment of democracy. True democracy must ultimately lead to good governance. Successive civilian and military governments in Pakistan have failed in this regard.

Any abuse of power, whether for monetary gain or anything else, should be addressed by firm and impartial application of the rule of law, not by unjustified interference with electoral arrangements and the democratic process.

Regrettably, in choosing the latter course, the Pakistan authorities engaged in a course of action which resulted in serious flaws in the electoral process.

Additionally, the restoration of democracy in this country is about the transfer of power from a military to a civilian administration. The powers that have been reserved to the president and the National Security Council raise serious questions as to whether or not this will happen.

The EUEOM hopes that following the completion of this election, all parties will work together to achieve the establishment of good governance in Pakistan.