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REPORT

From: General Secretariat of the Council
To: Asia-Oceania Working Party

Subject: Sri Lanka – EU Conflict Early Warning System (EWS) Iteration final monitoring report (2021-2023)

Delegations will find attached the final monitoring report (2021-2023) of the EU Conflict Early Warning System for Sri Lanka.

Sri Lanka – EU conflict Early Warning System (EWS) Iteration final monitoring report (2021-2023)

1. Introduction and overview of the process

Sri Lanka was selected as a priority country for the Early Warning System (EWS) in 2021. Assessment of structural risk of conflict was carried out virtually in 2021, followed by an inter-service follow-up mission to Sri Lanka in May 2022. To close the two year monitoring cycle, the following report by the EUDEL and Member States present in Sri Lanka (DE, FR, NL, IT, RO) is intended to deliver a political assessment of the evolution of the underlying risks of conflict in Sri Lanka as well as outline the preventative actions taken, including their possible impact.

Sri Lanka is the oldest democracy in Asia but has not overcome the majoritarian mindset that led to discrimination of ethnic and religious minorities. The need for accountability, reconciliation and social cohesion remains a key issue. On the one hand, there are no compelling indications of a potential return to violent conflict. On the other hand, the very nature of the civil war's ending, in May 2009 with outright victory for the Sri Lankan military, left the establishment unconstrained by the necessity of compromise and genuine reconciliation, in particular in relation to the minority Tamil population.

The 2019 Easter bombing terror attack brought a new security concern and was followed by a change in Government that brought back in power the Rajapaksa family. Ongoing initiatives on accountability and reconciliation were halted and constitutional changes vested more power to the executive presidency in 2020. A populist political agenda with policy shortcomings such as tax cuts combined with economic mismanagement made the country vulnerable to internal and external shocks, namely a decline in the vital tourism income due to the Easter terror attack; the severe economic impact from the COVID pandemic; the Russian invasion of Ukraine that severely affected tourism and agriculture sectors. The country has over the years seen a massive public debt build-up, fiscal instability, and a rapid depletion of foreign reserves, especially under Gotabaya Rajapaksa. In 2022, this resulted in an unprecedented economic crisis with a trajectory of rapid deterioration and increasing risks of instability due to shortage of food, fuel, medicines, cooking gas and other basic needs. The poverty rate doubled in one year to 25.6% in 2022 and 7 million out of the total population of 22 million are food insecure.

The economic crisis with massive power cuts led to a massive and mostly peaceful social movement whose main request was the ousting of the Rajapaksa family. Demonstrators were vindicated with the resignation of Prime Minister Mahinda Rajapaksa and the cabinet in May 2022 and of President Gotabaya Rajapaksa in July 2022. One of the most senior politicians in the country, Ranil Wickremesinghe, took over as Prime Minister in May and two months later was elected by the Parliament as the new President. Wickremesinghe has managed to set the course for economic stabilisation with a reform programme and financial assurances on debt restructuring from bilateral creditors that succeeded in bringing Sri Lanka to the IMF Board in March 2023 approving a crucial 3 billion USD Extended Fund Facility. At the same time the President has introduced a narrative of economic stability first and little tolerance of civil protests.

The 'Aragalaya' ('struggle') movement has for the moment faded out. It brought together Sri Lankan citizens irrespective of ethnic, gender and social divides. The temporary cross-sectional protest movement in itself was a sign of improved inter-group relations, it was largely peaceful but there were incidents of violence¹. The economic and social impact of the ongoing crisis, in the context of

¹ The worst incident of violence erupted on 9 May when Mahinda Rajapaksa supporters attacked peaceful protesters in Colombo. This was followed by widespread violence against government supporters throughout the country in which seven people were killed and the houses of about 70 parliamentarians were burned or damaged.

increasingly limited democratic space, has become a major contributing factor to the risk of conflict, with the potential to exacerbate the existing structural factors.

2. Political assessment

2.1 Update on the political situation and structural risks of conflict in the country

The six areas of key structural risks identified for Sri Lanka in its 2021 structural country assessment remain substantial and relevant. Recent developments within these areas are outlined in more detail below. In addition, developments over the past year have emphasised a seventh structural risk in the EWS methodology, namely legitimacy, so this risk is assessed at the end of chapter 2.

a. Rule of Law: Structural deficiencies in the justice sector include outdated legislations, systemic delays, lack of transparency, bad detention conditions, limited public awareness about existing laws and rights, as well as a lack of access to justice for the most vulnerable communities. The sector is under-resourced, and there is a relative lack of trust in the justice and law enforcement system. The justice system has been impacted in many ways, including a steady escalation in crimes and domestic violence; further strains on human and financial resources; fuel shortages and power cuts affecting the functioning of courts as well as increasing needs for legal representation as a result of arbitrary arrests during the protests. The crisis also led to a renewed public demand for accountability and transparency. Adopted in late 2022, the 21st Constitutional Amendment re-established some democratic checks and balances, including reintroducing the Constitutional Council for nominations to key independent functions such as Chief Justice, judges of the Supreme Court, Attorney-General, Auditor-General, Governor of the Central Bank and chairpersons and members of independent commissions. This should enhance the independence of the justice sector and strengthen oversight bodies such as the Human Rights Commission.

Impunity remains an underlying driver of conflict. A new UN HR Resolution was adopted in 2022 calling for the delivery of commitments on transitional justice. While GoSL remains opposed to any external accountability mechanism, it renewed its pledge to set up domestic mechanisms, such as a Truth Seeking Commission.

With respect to the problematic Prevention of Terrorism Act (PTA), the GoSL in March 2023 gazetted a proposal to replace it with a new Anti-Terrorism Act, but this new proposal, while having improvements in some areas, still leaves the door open for pre-eminence of the Executive at President's level over the judiciary and includes several problematic provisions. The definition of terrorism has a wider scope than what would be consistent with international norms and standards. It has been widely criticised by broad parts of the Sri Lankan society including human rights groups, civil society, lawyers and religious leaders (including prominent Buddhist monks).

b. Intergroup relations: the cross-sectional nature of the 'Aragalaya' at its peak in 2022 was in itself a positive sign of some progress in Sri Lanka's inter-group relations as the first movement in the country's history to temporarily cut across religious, ethnic, and class divisions. Its significance should however not be overstated, given the way this nascent solidarity seems to have dissipated since. At the time of writing, the movement has lost momentum and the country's civil society has returned to a familiar fragmented state, in which, with the exception of student groups and select united Trade Union actions, the majority of protests against the current reform measures are aimed at carving out exemptions for specific interest groups. By late 2022, Wickremesinghe had initiated a dialogue with the Tamil leadership on the full implementation of the 13th Amendment to the Constitution, one of the key demands of the Tamil minority since 1970s. Full implementation would include devolution of power from central government to provinces and stronger financial independence at provincial level

as well as resuming elections to the second tier of government i.e. the nine Provincial Councils. Elections were last held in a staggered way between 2012 and 2014. Currently all Provincial Council terms have expired and the provincial administrations are guided by the governors appointed by the President. While the base of SLPP is traditionally against devolution, a symbolic gesture was made on the eve of Sri Lanka's 75th Independence Day, when the military returned around 100 acres of land to 197 displaced families in the North. In efforts of reconciliation, the Government has pledged to return more land and continue releasing prisoners held for many years under the PTA. These efforts are important and commendable in a context with risk of political manipulation of societal divisions and inter-group tensions. These risks are exacerbated by the economic crisis and its impact on the already unequal distribution and access to resources and other underlying drivers of inequality.

c. Economy: The economy contracted by 7.8% in 2022 and is forecast to contract by 3% in 2023 as it continues to grapple with the challenge of debt restructuring and balance of payments difficulties. The ongoing economic crisis is estimated to have doubled the poverty rate in the country between 2021 and 2022. The current crisis has doubled the poverty rate from 13.1% to 25.6% from 2021 to 2022, increasing the number of poor people by 2.7 million. The country is now experiencing its highest poverty rate since 2009, and an erosion of the steady gains in welfare made between 2006 and 2019. While 80% of the poor still live in rural areas, the poverty rate in urban areas has tripled from 5% to 15% between 2021 and 2022, and half the population in estate areas is now living below the poverty line. The Gini index has increased from 37.7 in 2019 to 39.9 in 2022 further widening the disparities. Shortages of inputs, including the sudden import ban of chemical fertilizers in 2021, substantially reduced the overall agriculture sector output in 2022. Supply chain disruptions and limited access to inputs severely affected the industrial activity, particularly food and beverage manufacturing and construction. A sharp increase in the cost of basic needs is one of the key mechanisms through which welfare has been impacted, whilst livelihoods and productive potential are also being substantially eroded. The industry and services sectors are assessed to have declined by 11% and 8% in 2022, respectively, which would have led to the overall destruction of over half a million jobs.

d. Human Rights: To reiterate a common theme, the fact that 'Aragalaya' could peacefully unfold for over five months in 2022, demonstrated in itself that there was a space for freedom of expression and assembly/association. However, in the second half of July 2022, the Government's hardened its stance towards protestors, who they consider as a threat to national security after the torching of around 70 MPs' houses, including the one of Wickremesinghe. While before 2022 the controversial PTA had been mostly applied to Tamils and Muslims, in August 2022 three young demonstrators (including a Buddhist monk) were targeted and arrested (later released, the last one on 31 January 2023). This contravened with the commitments and reassurances that the previous Government gave to the EU in July 2022 that a de facto moratorium on the use of the PTA was firmly in place. The economic crisis also had a negative impact on the delivery of protection services for children, while leading to increasing cases of domestic violence. Human rights' violations continue to take the form of reduced access of minorities from employment and education (often linked to language discriminations). In 2022, hate speech targeting minorities on social media remained high, with an increase of anti-Christian posts. Following Sri Lanka's rejection of Resolution 51/1 at the UN Human Rights Council and Foreign Minister Ali Sabry's pledge to rely exclusively on domestic mechanisms for transitional justice, there are repeatedly expressed interest in establishing a new Truth and Reconciliation Commission based on inspiration from South Africa. However, existing bodies in this sector are poorly staffed and lacking resources, expertise and independence.

e. Civil Society and Media: Fundamental freedoms have also been impacted by the socio-economic crisis. Fragmented and diverse, civil society remains unable to speak with a single voice and effectively influence policy, possibly due to fear of political retribution. Smaller grassroots organisations operating outside of Colombo are particularly affected. There is at times some self-censorship

regarding governance and corruption, but open criticism of the government is both possible and commonplace in some media.

f. Climate and Environment: Unequal distribution and access to natural resources, its use and management, has a greater impact on the minority groups in the North and East. Despite the favourable geographic position, frequent rainfall, and high biodiversity, there are widespread areas of water scarcity with regular and increasing droughts, while other parts experience floods and landslides. Inter-group tensions play out in competition over Sustainable environmental management that is high on the agenda, yet environmental degradation is increasing rapidly. SL's current environmental concerns are intimately linked to development and urbanisation, which has led to a rapid land degradation and steady deforestation, worsened by people turning to wood for cooking due to the economic crisis. In addition, the intensification of activities such as sand mining has affected biodiversity, freshwater and marine resources; the latter continues to also be harmed by the wreckage of Xpress Pearl, a ship whose containers of chemicals and plastic pellets leaked in the waters around Colombo. While many institutions and legislations are in place to ensure environmental protection, the judiciary is increasingly playing a critical role in addressing environmental concerns.

g. Legitimacy: Since assuming power, President Wickremesinghe has succeeded in stabilising the economic situation, reducing drastically power cuts and ensuring the delivery of essentials. At the same time, the attempts to revive social mobilisation have been quashed by the police, which continues to pre-empt protests against the Government. The Government has also with the argument of "economic stabilisation first" stalled the Local Government (LG) elections (initially postponed due to the pandemic, now overdue by more than a year), delaying an outlet for releasing steam at polls. Thus, while the situation has stabilised since peak unrest in 2022, the reduced outlet for democratic expression of dissent, combined with economic hardships and reform measures might potentially exacerbate existing grievances and perceived illegitimacy of government actions. The domestic reform programmes and the IMF support are needed, but contested by the opposition. The Government is not popular, and mainly backed by the SLPP, whose leaders – including the ousted Rajapaksa brothers – are trying to return to the fore despite the lingering accusations of corruption and economic mismanagement.

2.2 Main challenges for the EU in its relations with Sri Lanka

The EU can build on a number of strengths: a lead player among the diplomatic community, a trusted development partner and Sri Lanka's second largest export destination. GSP+ remains for the time being a key element of leverage and dialogue. Sri Lanka is gaining importance in the Indo-Pacific, as regional and global actors are stepping up their engagement. For example China and India are competing for ground in Sri Lanka and Russia is seeking influence with direct flights, 25% of tourist arrivals and offers in the area of energy.

The EU's engagement and cooperation with the Government, and its support for Sri Lankan-owned initiatives and institutions has certainly proven more positive than the usual past perception that foreign solutions had been promoted in Colombo. A mix of political, diplomatic, economic, commercial and development tools, involving Government and the Opposition, civil society and the private sector in partnership with like-minded countries and institutions are being used, and should expand, depending on the policy choices made by the government. The financial envelope for Sri Lanka should allow effective use of development aid as part of an integrated policy approach. Increasingly, in the context of the IMF programme and related reforms, the Government and institutions are facing capacity challenges and funding constraints, which makes it the more important to closely coordinate the sequencing of priority actions with like-minded partners.

3. Implementation and impact of EU preventative action

3.1 Support reconciliation and transitional justice

At the 51st session of the UN Human Rights Council in October 2022, the Human Rights Council encouraged the Sri Lankan government to accept its proposition to create an international mechanism to address impunity related to the conflict. The government reiterated that it would make progress on the transitional justice process through domestic institutions, although multiple presidential commissions have already been established without much action afterwards. The GoSL is in advanced process of establishing a new Truth and Reconciliation Commission and looking for donors. They look to South Africa, which stresses the importance of a genuine national process involving all stakeholders and not a top down approach. It is important to follow this process, avoid being instrumentalised in symbolic gestures and seek to encourage genuine reconciliation.

Transitional justice is a long process that requires long-term support. In this regard, programmes on reconciliation have been implemented by the EU under the previous MIP (2015-2021) and the European Instrument for Democracy and Human Rights (EIDHR). The EU conducts these programmes in close relation to civil society organisations and now under the new MIP's priority sector called "Peaceful and inclusive society".

As an illustration, Germany (GIZ) together with the UK (British Council) implemented a related project, which ended in February 2022, called Strengthening Reconciliation Processes (SRP). Helping the government to foster reconciliation between communities was at the core of the latter. It was followed by the Strengthening Social Cohesion and Peace in Sri Lanka (SCOPE) project, which involves the government, civil society and the private sector as stakeholders. In parallel, the UK along with UNDP and the World Bank also implemented the Strengthening Transformation, Reconciliation and Inclusive Democratic Engagement (STRIDE) project, co-financed by the EU, which was meant to end in 2023. Due to political disruptions and governmental changes in priorities, the STRIDE programme has seen its progress delayed and requested an extension of mandate.

Not only Transitional Justice requires time to bear fruit, but it must also be inclusive. The EU will thus continue to support reforms in the justice sector in order to improve inclusive access for the victims through regular policy dialogue with the Ministry of Justice.

Eventually, for most of the projects to come, the delegation wishes to support projects adopting a local-driven approach to have a sustainable impact on the ground, as reflected in the launch in April 2023 of the new FPI 2 million euro support to Grassroots Conflict Prevention project implemented by World Vision targeting 130,000 beneficiaries.

3.2. Targeting media literacy, hate speech and support to journalism

In 2022, Online Hate Speech in Sri Lanka was fuelled by inter-religious and inter-ethnic resentments, reflected by anti-minority disinformation especially against Tamils, Muslims, and for the first notable time, Christians. Investigation journalists are also facing threats and harassment for doing their work. In light of the above, it is essential to improve online media literacy and develop a critical eye towards the information that is published.

The EU thus supported three EIDHR projects dealing with these issues between 2020 and 2023, namely countering disinformation/hate speech, promoting investigative journalism and favouring media development. They were implemented by several NGOs (Media Diversity Institute, Transparency Sri Lanka, Helvetas) and local partners.

Additionally, the Netherlands focus on media literacy for young girls and ensuring the physical safety of journalists. They also give extended support to Civil Society Organisations to promote Right to Information.

The EU Delegation plans in 2023 to invite a group of Sri Lankan investigation journalists to Brussels to share expertise with European experts. This could be linked with a new regional project titled “Enhancing Independent Journalism in the Indo-Pacific Region”, and implemented by Internews.

3.3 Capacity Building for Civil Society Organisations

The number of Civil Society Organisations is not scarce but they usually lack the funds to optimise their reach. Grants have thus been awarded to CSOs for an amount of about EUR 1.8 million to start implementation in 2023. This was done after a call for proposals by the EU in March 2022 under the Global Europe Human Rights & Democracy Thematic Programme 2021 – 2027, especially dedicated to the protection and empowerment of human rights defenders and democratic governance. The same month this year, a new call was made, focusing on supporting vulnerable groups in times of economic crisis and enhancing democratic governance in Sri Lanka and the Maldives.

Grassroots organisations are considered positively by the EU in line with the EU CSO Roadmap 2021-2024 and the will to be closer to local needs. The support is given to cross-sectoral topics addressed by NGOs, from women empowerment (*Women in Learning and Leadership* until 2022, and *Let the Women Decide the Margin* until 2023) to biodiversity recovery (Community Livelihood and Biodiversity Recovery, implemented by ACTED and three local CSOs).

As for Member States, an NGO protecting Human Rights Defenders is supported by the Netherlands, as well as the program of Civil Peace Service (Ziviler Friedensdienst) which is implemented by three German CSOs.

The new MIP encourages the EU to focus on enhancing its capacity building of CSOs, which should be developed in parallel to a strategy to counter the impact of a negative environment and policies towards CSOs. Eventually, there is a need for enhanced and more structured partnership with like-minded partners on supporting CSOs.

3.4 Green Recovery: climate change mitigation, adaptation and building resilience

The current MIP for Sri Lanka (2021-2027), based on joint programming with the Member States, highlights the importance of Green Recovery by selecting it as one of the two Priority Areas of focus of EU cooperation in the country. Sri Lanka consistently ranks among the most vulnerable countries due to its exposure to climate change and extreme weather related disasters and, as an island nation, rising sea levels. In 2015, the Internal Displacement Monitoring Centre ranked SL as the 13th most disaster-affected country in the world, stressing that for every million, 15,000 were at risk of internal displacement.

In a country where access to natural resources is unequally distributed, and land ownership is, in and of itself, one of the main sources of inter-ethnic tension, building up the country’s resilience to climate change and decoupling growth from resource use and environmental degradation is of utmost importance. In this context, the EU has established the EU Green Policy Dialogue Facility, in collaboration with, inter alia, GIZ, EIB and the Netherlands, in order to encourage dialogue with the Sri Lankan government and other relevant stakeholders. The facility aims at supporting the development and implementation of national policies, reforms and projects in the area of climate change adaptation and sustainable growth. The EU is also funding targeted actions to support progress with circular economy and biodiversity recovery and protection. For their part, member states, aside from participating to the Green Policy Dialogue Facility, are carrying out their own actions. The

Netherlands, for example, is working on capacity-building on access to climate finance and supporting climate-smart best practices in agriculture.

EU focused action in this field, with the implementation of the new MIP, is therefore under way. Among the root causes of the devastating economic crisis that hit Sri Lanka in 2022, the country's excessive dependence on imports of energy resources has come into sharp focus, and the support for action that will lead to an increased autonomy and efficiency on this front has therefore increased. At the same time, as tourist numbers are on the rise again, the push to protect the country's rich biodiversity, seen as one of Sri Lanka's top tourism attractions, has gathered momentum. It is therefore a good moment to support action and investment in green economy in both the public and private sector, create an economy more resilient to climate disasters, and reduce potential resource and land-related intercommunal tensions.

Continued governmental and societal support for green reforms and green investments is not, however, guaranteed. As economic projections remain dire until at least the end of 2023, it can be expected that support for climate action, outside or inside the government, end up being placed on the back burner. It is fundamental then, that the EU keep advocating sustainable development, among other things by leveraging GSP+ privileges and other incentives for access to the internal market, to make sure the goals laid out in the MIP continue to shape the action of the government in this area.

3.5 Research / data collection, including monitoring of internal displacement linked to environmental and land degradation and climate change

Data linked to Climate Change and Disaster Risk Reduction, required to make informed decisions and design programmes accordingly, is particularly important, especially in the Sri Lankan context, where climate vulnerability and disaster-related migration couples with a history of forced internal displacement linked to the civil war. However, the research and data collection in this field is lacking.

The EU is planning to support data collection and research on the impact of environmental degradation and climate change particularly on livelihoods in coastal areas in the context of its support for a sustainable and resilient growth in Sri Lanka. In the context of policy dialogues, the importance of good and informed governance, based on research and data, will be emphasised.

3.6 Promote inclusive approaches to economic growth

An inclusive society is the second priority area in the ongoing MIP for Sri Lanka. On this basis the EU is, inter alia, addressing the structural socio economic-disparity, entrenched gender gaps and geographical divides that play a key role in the frailty of social cohesion in the country. The planned activity is two-pronged: promoting economic partnership across fault lines with a focus on the most disadvantaged, marginalised and diverse communities; Support improvement of the overall policy, budgetary and institutional environment related to social protection. Gender empowerment and female participation has been mainstreamed in all of the actions planned in this field including the promotion of green recovery, digitalization, food security and support to SMEs.

Ongoing EU funded projects are currently contributing to a better public finance management and accountability when it comes to public resources as well as informing policy dialogue around the implementation of public finance facilities supporting children's rights and development

The EU is also continuing to work on the Business and Human Rights nexus, building on ongoing regional programmes with UNDP as well as EIDHR/CSO projects on freedom of association, labour rights and work safety in the garment industry. The Netherlands, on its part, has raised awareness on the Responsible Business Conduct upcoming mandatory requirements for export to the EU market, in collaboration with the ILO especially in the garment sector.

The EU will also remain engaged by supporting and providing recommendation to the IMF in its in-depth governance diagnostic exercise which will assess corruption and governance vulnerabilities in Sri Lanka. Its recommendations will be based on the research and data collected over the years as well as the best practices adopted in the course of its own policy dialogue with the government on PFM.

3.7 Diplomacy

Diplomacy has been essential to overcome recent changes in government and policies. To combine the need to develop strong relations while promoting Democracy and Human Rights values in diplomacy, the Generalised System of Preferences Plus (GSP+) was reassumed in 2017 as an economic instrument for facilitating access to the European market, on condition of ratifying and implementing 27 international conventions on human rights, labour conditions, environment and good governance. Monitoring visits are regularly planned and act as a leverage.

Along with Member States, the EU also organises or takes part in meetings with a wide range of stakeholders, from ministries to independent commissions, other international actors and local NGOs. Joint meetings between the EU Delegation and MS are also frequent to discuss recent developments, coordinate initiatives and projects and issue political messages. As such, the EU delegation and MS embassies jointly conducted campaigns on peace and reconciliation as well as gender based violence in 2022.

On the side of the government, the foreign policy followed is to maintain good diplomatic relations with all major powers, especially in a context of economic crisis. Such position has its downsides as Sri Lanka consistently abstain in the votes in UNGA on resolutions condemning the Russia was of aggression against Ukraine. Despite this important challenge, the EU and MS should keep joining efforts to give messages on the importance of respecting Democracy and Human Rights.

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