



To the Head of Human Rights Treaties Branch

The Department
Holmens Kanal 22
DK-1060 Copenhagen K

Phone +45 3392 9300
Fax +45 3393 2518
E-mail ism@ism.dk
www.ism.dk

In a statement that was broadcasted on the news programme of one of the public service channels, Danmarks Radio, on November 3, 2009 Mr. José Doria, secretary of the Committee on the Rights of Persons with Disabilities, commented on whether the Danish Parliamentary Electoral Act and more specifically the rules on assisted voting violates the UN Convention on the Rights of Persons with Disabilities. In the news programme it appears that Mr. José Doria speaks on behalf of the Committee and that he deems the Danish Parliamentary Electoral Act to be violating the Convention. From talks between the Danish UN-mission in Geneva and the secretary of the Committee we understand, however, that Mr. José Doria did not speak on behalf of the Committee and that he did not comment on the specific national legislation but only explained the rules in the Convention.

Date:

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The Danish Government wishes to underline that it does not believe that the Danish Parliamentary Electoral Act violates the Convention.

In order to make way for the ratification of the UN Convention on the Rights of Persons with Disabilities, the Danish Government inter alia put forward a Bill in 2008 amending the rules on assisted voting. The Bill was passed by the Danish Parliament this spring. The amendment provides the right for every elector who on account of disability, poor health or for similar reasons is unable to vote in the prescribed way, to demand assistance in voting by a person of his/her choice. This is in accordance with article 29(a)(iii) of the Convention, which stipulates that State Parties must allow "where necessary, at their request, (...) assistance in voting by a person of their own choice;".

In addition, to protect electors from intimidation and thereby, as stated in article 29(a)(iii), "guaranteeing the free expression of the will of persons with disabilities as electors", electors that request assistance in voting and demand assistance by a person of their own choice shall also be assisted by a polling supervisor or an appointed elector. Similar provisions apply to assisted voting provided during advance voting.

The polling supervisor or appointed elector has a duty of confidentiality and may not disclose any information about the voting of an elector. This provision ensures that assisted voting is conducted with due respect to the principle of secret ballot. If the polling supervisor or appointed elector breaches this obligation, he/she will be subject to a fine or imprisonment up to four months.

The provision on assisted voting on election day in the Parliamentary Electoral Act reads as follows:

"49.-(1) Voters who on account of disability, poor health or for similar reasons are unable to walk into a polling station or voting booth or in any other way are unable to vote in the prescribed way, cf. section 48, may request the assistance needed to cast their vote, cf. however subsection (4). This may call for the necessary

modifications of the prescribed procedure and may entail access to cast one's vote immediately outside the polling station.

(2) Assistance in voting is rendered by two polling supervisors or appointed electors. Instead of one of the supervisors or appointed electors the voter can demand assistance in voting by a person of his/her own choice.

(3) A candidate standing for a party in the multimember constituency may not render assistance in voting as polling supervisor or appointed elector.

(4) Assistance to cross off the ballot paper may be rendered only when the voter is able to indicate direct and unambiguously to those rendering assistance the party or candidate for which he wants to vote."

Similar provisions are contained in the legislation regarding municipal and regional elections, referenda and elections in Denmark to the European Parliament.

The Danish Government is of the firm conviction that the Danish rules on assisted voting are in full alignment with Denmark's obligations under article 29 of the UN Convention on Persons with Disabilities, in that they simultaneously provide electors with disabilities the right to be granted assistance in voting by a person of their own choice, and protect the same electors from intimidation, thus guaranteeing their right to free expression of their will as electors.

The Danish Government also wishes to reaffirm its strong commitment to the established procedures in articles 35 and 36 of the Convention. The Government will be happy to discuss questions concerning the implementation of the Convention with the Committee in the context of the examination of the comprehensive report that the Danish Government will submit on measures taken to give effect to the obligations under the Convention. The Danish Government will do its utmost to provide the Committee with full and comprehensive information about the Danish implementation process – including concerning the above mentioned issue - during that process.

We are looking forward to your comments to the issues raised above.

Yours sincerely,

Jesper Brask Fischer
Head of Division