



Office for Democratic Institutions and Human Rights

# DENMARK

GENERAL ELECTIONS

15 September 2011

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

24-26 August 2011



Warsaw  
19 September 2011

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**OSCE/ODIHR Needs Assessment Mission Report**

**I. INTRODUCTION**

On 26 August 2011, in accordance with OSCE commitments, the government of Denmark invited the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to observe the 15 September 2011 general elections. In anticipation of this invitation, OSCE/ODIHR undertook a Needs Assessment Mission (NAM) to Denmark from 24 to 26 August 2011. The NAM included Nicola Schmidt, OSCE/ODIHR Senior Election Adviser, Alexander Shlyk, OSCE/ODIHR Election Adviser, Neil Simon, OSCE PA Director of Communications, and Nathaniel Parry, OSCE PA Editorial Director.

The purpose of the mission was to assess the pre-election environment and the preparations for the elections, and to recommend whether an ODIHR election-related activity would be deployed for the forthcoming elections, and if so, what type of activity would best meet the identified needs. While the NAM was in progress, the election was announced, in line with legal provisions, on a short notice to be held on 15 September. Meetings were held in Copenhagen with officials from the Ministry of Foreign Affairs, the Ministry of Interior and Health, the *Folketing* (the parliament) Committee for Elections, Statistics Denmark, the Press Council, the Danish Institute for Human Rights, as well as with representatives of political parties and the media. A list of meetings is included as an annex to this report.

OSCE/ODIHR would like to thank the Ministry of Foreign Affairs for its assistance and co-operation in organizing the NAM and the OSCE PA for the logistical support. OSCE/ODIHR would also like to thank all of its interlocutors for taking the time to meet with the mission.

**II. EXECUTIVE SUMMARY**

In the 15 September 2011 elections, Danish voters were to elect 179 deputies of the *Folketing* (the parliament). The *Folketing* is a unicameral body composed of 175 deputies elected from Denmark and 2 each from the Faroe Islands and Greenland, the constituent countries of the Kingdom of Denmark. This report focuses on the election of the deputies from Denmark.

For elections, Denmark is divided into 3 regions that are subdivided into 10 multi-member constituencies which are further divided into 92 nomination districts. The multi-member constituencies return 135 of the 175 seats in the *Folketing* while the remaining 40 compensatory seats are distributed between regions and, subsequently, between constituencies and nomination districts through a two-tier mandate allocation system.

The Danish general elections are regulated by the Constitution and the Parliamentary Election Act (election law). The legal framework does not include separate legislation on political parties, with the election law outlining the terms of their eligibility and registration for elections to the *Folketing*. Political parties already represented in the

*Folketing*, as well as those that collect at least 19,769 declarations of support from voters, are eligible to register lists of candidates in each nomination district. Some interlocutors voiced concerns with regard to the requirement that the declarations of support include confidential personal identification numbers. Independent candidates can stand in as many nomination districts as they want to, provided they are supported by between 150 and 200 voters in each. A valid vote can be cast for a particular candidate or a party, or indicate both a candidate and the party that this candidate stands for. Although voting and counting are, in principle, open to the public, the legal framework for elections in Denmark does not explicitly provide for domestic or international observation.

Elections are run by 3 levels of administration, comprising the election section of the Ministry of Interior and Health, 92 district election committees (DECs) and about 1,650 polling district election committees (PDECs). The administration of elections at lower levels relies to a significant degree on the municipalities with local branches of political parties recruiting members of the DEC and the PDECs. All interlocutors expressed a high degree of trust in the impartiality and professionalism of the election administration.

According to the Constitution and the election law, only those citizens who permanently reside in Denmark, or are considered as such despite living abroad, are eligible to vote in the elections. Voter registers include voters who have been registered with the local national registration offices no later than 15 days prior to election day and are prepared for each municipality. Local councils can make corrections and additions to the voter register up to and including on election day. Voters who are not able to visit the polling station where they are supposed to cast a ballot on election day can vote in advance in a controlled environment and administered by a municipal officer with the ballot sent to the voter's home constituency using a double envelope system.

Many interlocutors highlighted the importance of the elections and expected the campaign to focus on economic issues. They expected the campaign to be primarily conducted via outdoor and print advertising, as well as TV coverage in the news, current affairs programmes, debates and paid spots. A number of interlocutors pointed out that campaigns are run not only by political parties and candidates but also by such interest groups as trade unions, businesses or associations of employers.

Legislation does not establish any limits on campaign expenditure by political parties or any other entities, neither does it require political parties to report the expenses incurred in relation to campaign activities. Although the legislation establishes reporting mechanisms for government grants and private donations, some OSCE/ODIHR NAM interlocutors expressed concerns with regard to the low transparency of political party and campaign finance.

A diverse and vibrant media landscape in Denmark allows for a broad range of public and political views. In addition to the major broadcast media (DR, TV2), print media play a significant role in informing the public of political matters. Advertising of a range of public associations, including political parties, is prohibited on television as is television advertising of "political messages" in the period between the announcement of elections and the election day. The Press Council, established by law, adjudicates media-related complaints. Its decisions are not subject to appeal.

The process of election dispute resolution is primarily regulated by the election law. The

law also stipulates that the validity of general elections is established by the *Folketing*. The election law does not provide for judicial review of any of the administrative decisions made with regard to elections. Moreover, decisions of the *Folketing* committee for elections regarding particular complaints, or of the *Folketing* itself regarding the validity of elections, are not subject to appeal. Despite the absence of an opportunity for judicial appeal of administrative decisions, all interlocutors of the OSCE/ODIHR NAM expressed trust in the election dispute resolution mechanism.

All interlocutors expressed a high level of confidence in all aspects of the electoral process. Based on this, and due to the short timeframe before the upcoming elections, the OSCE/ODIHR NAM did not recommend deploying an election-related activity for the 15 September elections to the *Folketing*. OSCE/ODIHR encourages the authorities of Denmark to consider the issues raised by interlocutors in discussions with the OSCE/ODIHR NAM, including the regulation of political finance, the complaints and appeals process, and the issue of campaign coverage in the media. OSCE/ODIHR stands ready to offer its assistance upon request in a post election follow-up process.

### III. FINDINGS

#### A. BACKGROUND AND POLITICAL CONTEXT

The *Folketing* (the parliament) is a unicameral body composed of 179 deputies, of whom 175 are elected from Denmark and 2 from each the Faroe Islands and Greenland, the constituent countries of the Kingdom of Denmark. Following the 13 November 2007 parliamentary elections, 8 parties gained representation among the 175 deputies elected to the *Folketing* from Denmark. The Liberal Party (*Venstre*) gained the largest number of seats (46), followed by the Social Democrats (*Socialdemokraterne*; 45), the Danish People's Party (*Dansk Folkeparti*; 25), the Socialist People's Party (*SocialistiskFolkeparti*; 23), the Conservative People's Party (*DetKonservativeFolkeparti*; 18), the Social Liberal Party (*DetRadikaleVenstre*; 9), the New Alliance (*Ny Alliance*; 5), and the Red-Green Alliance (*Enhedslisten*; 4). Subsequently, the New Alliance changed its name to the Liberal Alliance (*Liberal Alliance*). Following the elections, the Liberal Party formed a minority coalition government with the Conservative People's Party.

OSCE/ODIHR has not previously observed national elections in Denmark but has visited the country in the context of its expert visits to assess preparations for the European Parliament elections in 2009.<sup>1</sup>

#### B. ELECTION SYSTEM AND LEGAL FRAMEWORK

The general elections are primarily regulated by the Constitution of 1953 and the Parliamentary Election Act (election law),<sup>2</sup> adopted in 1987. Elections in the Faroe Islands and Greenland are administered on the basis of separate legislation. This report focuses on the election of the members of the *Folketing* from Denmark.

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<sup>1</sup> See the Expert Group Report on 2009 elections to the European Parliament at <http://www.osce.org/odihr/elections/eu/38680>.

<sup>2</sup> Available at [http://www.ft.dk/~media/Pdf\\_materiale/Pdf\\_publicationer/English/valgloven\\_eng\\_web\\_samlet%20pdf.ashx](http://www.ft.dk/~media/Pdf_materiale/Pdf_publicationer/English/valgloven_eng_web_samlet%20pdf.ashx).

For the purposes of elections, Denmark is divided into 3 regions (Metropolitan Copenhagen, Sealand-Southern Denmark, and Northern and Central Jutland) that are subdivided into 10 multi-member constituencies and further into 92 nomination districts.<sup>3</sup> Of the 175 seats in the *Folketing*, 135 are constituency seats that are returned by the 10 multi-member constituencies. The remaining 40 compensatory seats are distributed between the 3 regions and, subsequently, between constituencies and nomination districts. A valid vote can be cast for a particular candidate or a party or indicate both a candidate and the party that this candidate stands for. This forms the basis for a two-tier mandate allocation system.

The mandates are first allocated among parties and independent candidates at the level of each multi-member constituency using the *d'Hondt* method, when successive divisors are applied to the total number of votes received by the political party list or an independent candidate in that constituency. Secondly, parties that cross at least one of the three thresholds<sup>4</sup> become eligible for the allocation of the compensatory seats that are devised to bring the total of party mandates nationwide in line with the party's share of the votes cast nationwide. Compensatory seats for each party are distributed first between the three regions using the *Saint-Laguë* formula and, subsequently, between the multi-member constituencies by application of the wider spread divisors.<sup>5</sup> This determines how many seats each party is entitled to in each constituency.

The candidates who actually fill the allocated seats are determined on the basis of the total number of the votes they receive. For each one, this total is determined as a sum of the personal votes (cast for a specific candidate, or a candidate and the party that he/she stands for) and a corresponding share of the party votes (cast for a party). The party votes are distributed to the candidates at the level of the nomination district either proportionately to the number of their personal votes received (if no distinction is made between candidates in the district) or are allocated in full to one candidate who had been registered as 'standing in the district' for a specific party.

The legal framework of Denmark does not include separate legislation on political parties, with the election law outlining the terms of their eligibility and registration for elections to the *Folketing*. The election law provides for the possibility for the public to be present during voting, counting and the mandatory recounting, although the number of people present during voting may be limited by the polling station staff to ensure public order. The election law does not explicitly provide for domestic or international observation of the elections as called for in paragraph 8 of the 1990 OSCE Copenhagen Document. However, the OSCE/ODIHR NAM was assured full access to all stages of the election

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<sup>3</sup> The number of multi-member constituencies was reduced from 17 to 10 after a reform of 2007. There are 98 municipalities in Denmark; a nomination district can consist of a part of a municipality, as well as of a number of municipalities and parts thereof.

<sup>4</sup> The three thresholds are (i) winning a seat directly in one of the constituencies, (ii) obtaining in two out of the three provinces a number of votes that corresponds at least to the vote per seat ratio (excluding the compensatory seats), and (iii) obtaining two percent of votes nationwide.

<sup>5</sup> At the regional level, the largest quotients are determined by successively dividing the party votes by the divisors 1, 3, 5, etc. (pure *Saint-Laguë*). At the constituency level the divisors are 1, 4, 7, 10, 13, etc. with the wider interval allowing a relatively greater spread of the compensatory mandates to the smaller constituencies. At both stages of allocating the compensatory mandates, as many of the largest quotients are disregarded as the number of the seats the party has won in the region or a constituency.

process in the event that an election observation activity would be undertaken.

### **C. ELECTION ADMINISTRATION**

Elections are run by 3 levels of administration, comprising the election section (ES) of the Ministry of Interior and Health (MoIH), 92 district election committees (DECs) and some 1,650 polling district election committees (PDECs).

The ES is a permanent body that has the responsibility for organizing elections. Some of ES staff are appointed by the MoIH to a separate entity – the election board – that performs such specific tasks as registering extra-parliamentary political parties that want to contest the elections and maintaining a list of party names, as well as deciding on the eligibility of voters who resided abroad for more than four years.<sup>6</sup>

Each DEC and PDEC is appointed by the corresponding local council on the basis of proportional representation of political parties represented in it. As pointed out by OSCE/ODIHR NAM interlocutors, the administration of elections at lower levels relies to a significant degree on the municipalities with local branches of political parties recruiting DEC and PDEC members.

The DECs are formed in nomination districts, which can consist of either a part or a whole of one municipality, or of a number of municipalities or their parts. For each nomination district that consists of more than one municipality, the election law determines a constituency municipality that performs the common functions. The five to nine members of such DECs are appointed from each of the municipalities or their parts in proportions prescribed by the election law.<sup>7</sup> The mayor of a constituency municipality serves as the DEC chairperson, with the deputy chairperson also elected by the local council of this municipality. Candidates standing cannot serve as members of any DEC in a constituency where they run. The election law allows the Minister of Interior and Health to make “minor adjustments” to the list of election districts by executive order.<sup>8</sup>

The PDECs are composed of between five and nine polling supervisors and are assisted by a number of appointed electors. Every voter is obliged to serve as a polling supervisor, if appointed. Although candidates standing for elections can serve as polling supervisors or appointed electors, there are certain restrictions regarding their participation in the counting of votes.<sup>9</sup> Although usually about 6-8,000 voters are assigned to one polling district, interlocutors informed the OSCE/ODIHR NAM that this number can be as high as 18-20,000.

All OSCE/ODIHR NAM interlocutors expressed a very high level of trust and confidence in the professionalism and integrity of the election administration at all levels.

### **D. VOTER REGISTRATION AND METHODS OF VOTING**

According to the Constitution and the election law, only those citizens who permanently

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<sup>6</sup> See Section 17 of the election law for details of the election board composition and its tasks.

<sup>7</sup> See Section 24 of the election law for detailed proportions.

<sup>8</sup> See Sections 8 sub-sections (5) and (6) of the election law.

<sup>9</sup> They are, for example, not allowed to participate in the counting of votes for themselves. See Section 74a of the election law.

reside in Denmark are eligible to vote in the elections. The election law also specifies which categories of citizens temporarily residing abroad are considered as permanent residents of Denmark and are eligible to cast a ballot.<sup>10</sup>

The voter register is extracted from the national civil registration system (CPR) by staff of the MoIH once the elections are announced. A separate voter register is prepared for each polling district and includes voters who have been registered with the local national registration office not later than 15 days prior to elections.<sup>11</sup> Based on the voter register, the local council prepares polling cards that contain the name and address of the voter, as well as the information of the day and time of voting and the address of the polling station. After polling cards are sent to voters,<sup>12</sup> complaints can be addressed to local councils. Additions and corrections to the voter register can be made up to and including on the election day. The OSCE/ODIHR NAM was informed that 45 out of 98 municipalities chose to use digital voter registers that are communicated to them from the MoIH via a secure connection. OSCE/ODIHR NAM interlocutors voiced no concerns with regard to the quality of the voter registers.

Voting on election day at the polling stations remains the predominant way of casting ballots. Voters who are not able to visit a polling station can vote in advance. A voter can cast a ballot in advance in a controlled environment before a municipality officer, who attests to the secrecy and free expression of the voter's will, at any municipality in Denmark using materials authorized by the MoIH. The ballot cast in advance is sent to the voter's home constituency using a double envelope system.

Voters residing in Denmark can vote in advance within three weeks of election day but no later than two week-days before. Advance voting is envisaged for voters at any of the national registration offices, as well as for the voters in hospitals and nursing homes or for inmates in prisons. Homebound voters should file a request to cast a ballot at home at least 12 days before the elections. Voters residing abroad can cast a ballot in advance at any Danish diplomatic or consular mission. All OSCE/ODIHR NAM interlocutors expressed full confidence in the effectiveness and transparency of the advance voting procedures.

The OSCE/ODIHR NAM was informed that the Danish authorities are considering introducing electronic voting at some point in the future. The discussion seems to focus mostly on the need to introduce new voting technologies and the importance of employing methods to ensure the secrecy of the vote.

## **E. CANDIDATE REGISTRATION**

Lists of candidates standing for political parties, as well as independently, are formed at the level of a nomination district. All political parties that gained representation in the *Folketing* during the last elections and continue to be represented therein are eligible to nominate candidates in all nomination districts.

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<sup>10</sup> See Section 2 of the election law for a list of eligible voters temporarily residing abroad and Section 16 of the election law for provisions on the mode of their inclusion in the voter registers.

<sup>11</sup> This deadline is 18 days prior to elections for registering a move from/to the Faroe Islands and Greenland, and 7 days prior to elections for a move from abroad.

<sup>12</sup> A private company KMD is contracted by all municipalities to send polling cards to the voters on behalf of the local councils. Homeless people are included in the CPR, and the voter registers, on the basis of a fictitious address and can receive their polling cards at the municipality office.



Other parties can participate in the elections if they submit at least 19,769 declarations of support from eligible voters to the MoIH<sup>13</sup> and choose a unique party name. Although the Christian Democrats (*Kristendemokraterne*) have deputies in the *Folketing*, because a deputy of the Conservative People's Party joined them, the party needed to collect declarations of support to participate in the upcoming elections, in accordance with the law. Declarations of support are reviewed by the ES of the MoIH, are returned to the voters who then forward them to a political party that seeks registration. These declarations must be accompanied by a certificate of eligibility to vote that can be obtained from a local national registration office. Some OSCE/ODIHR NAM interlocutors noted that the requirement to disclose the confidential personal identification number (linked to the CPR) in the declaration of support might have a discouraging effect on some voters who would otherwise like to support the party.

Political parties forming lists of candidates for the nomination districts can choose to nominate a candidate as 'standing for the district.' In that case, the candidate's name is placed first in the section of this party and all the votes cast for that party in the district (including the votes cast for other candidates) would be attributed to this candidate during the process of allocating seats. Alternatively, party candidates can stand 'in parallel' with their names listed in alphabetical order and the party votes are distributed among them in proportion to the personal votes they received.

Candidates wishing to contest elections independently need to submit signatures, addresses and the CPR numbers of between 150 and 200 supporters from a corresponding nomination district. A candidate would need to satisfy the signature requirement in each district where he/she wishes to stand for elections. The names and addresses of the supporters are open to the public.

Although there are no restrictions on candidate eligibility, the *Folketing* may decide to exclude an elected member if s/he is found guilty of an act deemed "unworthy of being a Member" of the *Folketing*.<sup>14</sup> OSCE/ODIHR NAM interlocutors pointed out that in accordance with long-standing tradition of the *Folketing*, members would only be stripped of their mandate following a conviction by a court.

## F. ELECTION CAMPAIGN AND POLITICAL FINANCE

Many interlocutors highlighted the importance of the elections and expected the campaign to focus on economic issues. The OSCE/ODIHR NAM witnessed that the campaign commenced immediately after the announcement of the elections by the Prime Minister on 26 August, although the election law does not contain specific provisions regulating the timeframe for the campaign. OSCE/ODIHR NAM interlocutors envisaged the campaign to be primarily conducted via outdoor and print advertising, and for it to be covered by media outlets in the news and current affairs programmes, debates as well as through paid advertisements.

A number of OSCE/ODIHR NAM interlocutors pointed out that campaigns are run not

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<sup>13</sup> The election law requires submission of signatures of voters in the amount that corresponds as a minimum to 1/175 of the total number of valid votes cast in the previous elections. No declarations of support are necessary for registering the party of the German minority.

<sup>14</sup> See Section 4 of the election law, as well as Sections 30 and 33 of the Constitution.

only by political parties and candidates but also by such interest groups as trade unions, businesses or associations of employers. Representatives of political parties and the media pointed out that this is a widespread practice and that there is no prohibition on such campaigning, except for the general ban on political advertising in electronic media (see below).

Legislation does not establish limits on campaign expenditure by political parties or any other entities, nor does it require political parties to report the expenses incurred in relation to their campaign. Representatives of political parties informed the OSCE/ODIHR NAM that campaigns of individual candidates are usually funded from the sources of the political parties at the national and regional levels, as well as through contributions raised by the candidates themselves.

As highlighted by a number of interlocutors, political parties receive contributions from three sources. Firstly, parties usually rely on membership fees. Secondly, each political party that receives at least 1,000 votes in the parliamentary elections is entitled to a government grant of 28 DKK (approximately 3.75 EUR) for each vote received. These grants, totalling about 96 million DKK (approximately 13 million EUR) in 2011, are to be used by political parties for political activities. Thirdly, political parties can receive unlimited contributions from Danish and foreign physical and legal entities.

Danish legislation establishes reporting mechanisms through two separate laws.<sup>15</sup> Government grants are disbursed on the basis of an application outlining the amount of funds that a political party expects to spend on conducting political activities in a forthcoming year. The application should also be accompanied, when applicable, by a declaration that the expenditure on political activities at least matched the previous grant.

Moreover, receiving a government grant is conditional on publishing audited party accounts of private donations.<sup>16</sup> According to regulations, identities of those who make contributions exceeding in total 20,000 DKK (approximately 2,700 EUR) need to be published. However, the exact amounts of these donations can remain undisclosed. Moreover, anonymous donations are possible, although it is an offence to report a donation as anonymous in case the party is aware of the identity of the donor.<sup>17</sup> While the Auditor General can review political party accounts in detail, the OSCE/ODIHR NAM was informed that this has never happened. Some OSCE/ODIHR NAM interlocutors criticized the level of transparency of political party and campaign finance.

Some interlocutors also noted political campaigning by interest groups may as problematic. In a similar vein, the European Court of Human Rights (ECtHR) concluded that freedom of association was violated when two people were compelled to join a trade union in Denmark in order to secure employment due to predominance of closed-shop

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<sup>15</sup> See respectively the Grants to Political Parties (Consolidation) Act, available at [http://valg.im.dk/English/~/\\_media/Filer-valg-uk/Party-grants/Party-grants.ashx](http://valg.im.dk/English/~/_media/Filer-valg-uk/Party-grants/Party-grants.ashx), and the Private Contributions to Political Parties and Publication of Political Parties Accounts Act, available at <https://www.retsinformation.dk/Forms/R0710.aspx?id=2409> (in Danish). The former also provides for government grants at the regional and local levels.

<sup>16</sup> See Section 7b of the Grants to Political Parties (Consolidation) Act, as well as Section 3 of the Private Contributions to Political Parties and Publication of Political Parties Accounts Act.

<sup>17</sup> See Section 6a(1) of the Private Contributions to Political Parties and Publication of Political Parties Accounts Act.

agreements and despite disagreeing with its political affiliation.<sup>18</sup> The issue of limited transparency of political party finance has been raised in the reports published by the Council of Europe.<sup>19</sup>

A number of political party representatives informed the OSCE/ODIHR NAM that they expect to embark upon a discussion of possible ways to increase transparency of political party and campaign finance after the elections. They noted, however, that many contributors strongly prefer to maintain their anonymity to avoid political labelling.

## G. MEDIA

A diverse and vibrant media landscape allows for a broad range of public and political views. The national broadcasting corporation DR includes 6 TV channels (DR1, DR2, DR Update, DR *Ramasjang*, DR K, and DR HD) and a number of radio channels (P1, P2, P3, and P4 with its 11 regional channels). Apart from that, a state-owned private limited broadcaster TV2, with its six national channels (TV2 *Danmark*, TV2 Zulu, TV2 Charlie, TV2 News, TV2 Film and TV2 Sport) and eight regional channels,<sup>20</sup> has the greatest audience in Denmark. DR and the regional channels of TV2 are financed by license fees, while TV2 national channels are financed through advertising.

The OSCE/ODIHR NAM was informed that both DR and TV2 planned extensive coverage of the election campaign, including a series of debates between leaders of all nine parties contesting the elections and one-on-one debates between leaders of the two major parties.

All Danish broadcasters are subject to the Radio and Television Broadcasting Act. At the same time, DR, TV2 *Danmark* and TV2 regional channels have public service obligations that are determined by a political agreement in the *Folketing* and are embodied in public service contracts that outline principles of their programming. The main opposition party is not part of the current political agreement in the *Folketing*.

In accordance with the Radio and Television Broadcasting Act, advertising by a range of public associations, including political parties, is prohibited on television. Additionally, television advertising of “political messages” is prohibited in the period between the announcement of elections and election day.<sup>21</sup> The OSCE/ODIHR NAM was informed

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<sup>18</sup> See European Court of Human Rights, *Sørensen and Rasmussen v. Denmark*, No. 52562/99 and 52620/99, 11 January 2006. The ECtHR noted that, although trade union members can subscribe to a form of “non-political membership” in accordance with the law, this did not result in any reduction in the membership fee. The ECtHR also pointed out that the trade unions usually make contributions to parties from the funds raised rather than limiting them to a percentage of membership fees.

<sup>19</sup> The GRECO Third Evaluation Round 2008 Evaluation Report on Denmark, see [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2008\)9\\_Denmark\\_Two\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2008)9_Denmark_Two_EN.pdf), contained nine recommendations pertaining to political party finance. As pointed out in the GRECO Third Evaluation Round 2011 Compliance Report on Denmark, none of the recommendations regarding transparency of party funding have been implemented, see [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2011\)8\\_Denmark\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2011)8_Denmark_EN.pdf).

<sup>20</sup> A number of OSCE/ODIHR NAM interlocutors noted that regional channels play a significant role in covering local election campaigns and candidates.

<sup>21</sup> See Section 76(3) and 76(4) of the and Television Broadcasting Act for detailed provisions related to the prohibition.

that the term “political messages” is interpreted broadly and includes messages that aim to promote public opinion on political matters. It is understood that this prohibition extends to advertising by organizations and unions, in which they express political views.<sup>22</sup> Additionally, the law expressly prohibits sponsorship of all programs by political parties or other public associations, as well as any sponsorship of the news and current affairs programs on television and on the radio.<sup>23</sup>

Newspapers, especially major dailies with circulation exceeding 100,000 copies such as *Politiken*, *Berlingske Tidende* and *Morgenavisen Jyllands-Posten*, form a significant part of the media landscape. Newspapers planned extensive coverage of the elections, focusing on analytical reviews of party programmes, sometimes in co-operation with academic institutions.

All print and broadcast media in Denmark are regulated by the Media Liability Act of 1998. This law specifies that the “content and conduct of mass media shall be in conformity with sound press ethics.”<sup>24</sup> The OSCE/ODIHR NAM was informed that although major media outlets have internal codes of conduct, they are also involved in formulating the overarching ethics rules for media under the auspices of the Press Council.

The Press Council is established by the Media Liability Act to adjudicate media-related complaints. It is composed of eight members, representing editors, journalists and the public, and is chaired by a Supreme Court judge. The Press Council receives an average of 200 complaints yearly, with some 70 rejected automatically by the chairperson for procedural reasons. In the remaining cases, after the parties to the dispute are asked for comments, the Press Council may order a correction to be published. Adjudication of complaints may take up to two months which, as OSCE/ODIHR NAM interlocutors noted, may be overly long in the electoral context. Decisions of the Press Council are final and cannot be appealed.

Internet resources, including on-line editions of newspapers or broadcasters, are not regulated. They can, however, voluntarily register with the Press Council and become subject to the Media Liability Act. The OSCE/ODIHR NAM was informed that on-line editions of all newspapers did so.

Although cases of defamation or libel can be submitted for adjudication to the court, political actors do not do so, according to interlocutors. Instead, they tend to settle their complaints directly with the media outlets that often have internal ombudspersons. All interlocutors expressed overall confidence in the professionalism and impartiality of media outlets, including with regard to considering any complaints.

## H. COMPLAINTS AND APPEALS

The process of election dispute resolution is primarily regulated by the election law that also stipulates that the validity of general elections is established by the *Folketing*, itself.

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<sup>22</sup> See the review of the prohibition at the website of the Agency for Media and Libraries of the Ministry of Culture, <http://www.bibliotekogmedier.dk/english/radio-and-tv/political-advertising-on-tv/>.

<sup>23</sup> See Section 84 of the Radio and Television Broadcasting Act. Radio broadcasts that are not part of the public service program are exempt from this rule.

<sup>24</sup> See Section 34(1) of the Media Liability Act.

The election law does not provide for a judicial review of any administrative decisions made with regard to elections. For instance, decisions of the election board with regard to eligibility of voters who stayed abroad for more than four years or concerning registration of political parties to contest elections are not subject to appeal. The OSCE/ODIHR NAM was informed that decisions on complaints regarding voter registration taken by the municipality offices can be reviewed by the ES, without the possibility of further appeal.

The law also mandates the *Folketing* to affirm the validity of general elections. The *Folketing* committee for elections receives and adjudicates complaints related to the elections before making a recommendation to the *Folketing* regarding the validity of elections. There are no established rules or forms for submitting complaints. The OSCE/ODIHR NAM was informed that the committee receives a very limited number of complaints and manages to adjudicate all of them within a short period of time. Most complaints submitted during previous elections pertained to issues of the short timeframe for out-of-country voting, a regulation that makes it possible for out-of-country voters to cast a ballot in advance only for a political party and not an individual candidate, and limited access for disabled voters to some polling stations. Rulings of the *Folketing* committee for elections on particular complaints, or of the *Folketing* regarding the validity of elections, are not subject to appeal.

Despite the absence of judicial appeal on administrative decisions, which conflicts with the commitments contained in Paragraph 5.10 of the 1990 OSCE Copenhagen Document and Paragraph 18.4 of the 1991 OSCE Moscow Document, all interlocutors of the OSCE/ODIHR NAM expressed trust in the election dispute resolution mechanism.

#### **IV. CONCLUSIONS AND RECOMMENDATION**

All interlocutors expressed a high level of confidence in all aspects of the electoral process. Based on this, and due to the short timeframe before the upcoming elections, the OSCE/ODIHR NAM did not recommend deploying an election-related activity for the 15 September elections to the *Folketing*. OSCE/ODIHR encourages the authorities of Denmark to consider the issues raised by interlocutors in discussions with the OSCE/ODIHR NAM, including the regulation of political finance, the complaints and appeals process, and the issue of campaign coverage in the media. OSCE/ODIHR stands ready to offer its assistance upon request in a post election follow-up process.

## **ANNEX: LIST OF MEETINGS**

### **Officials**

#### **Ministry of Foreign Affairs**

William Boe, Deputy Head, Department for European Neighborhood and Russia  
Marie Kruse, Head of OSCE Section, Department for European Neighborhood and Russia

#### **Ministry of Interior and Health**

Nicoline H. Miller, Chief Election Officer  
Christian Vigh, Head of Department, Centre for Municipal Law  
Louise Brandt Olsen, Head of Section, Centre for Municipal Law  
Carsten Grage, Head of Department, Office of the Central Civil Register

#### **KMD (Danish IT company)**

Leif Hernø, Market Manager

#### **Statistics Denmark**

Helle Stender, Project Manager  
Thomas Michael Nielsen, Special Advisor

#### ***Folketing* Committee for Elections**

Karen Klint, MP, President  
Peter J. Jensen, MP, Deputy President

### **Political Party Representatives**

#### **Danish Social Liberal Party**

Jørgen Poulsen, MP

#### **Christian Democrats**

Kåre Skarsholm, Political Adviser

#### **Conservative People's Party**

Tom Behnke, MP

#### **Danish People's Party**

Carl Christian Ebbesen, Organizational Vice President

#### **The Liberal Party**

Kristian Jensen, MP

#### **Socialist People's Party**

Turid Leirvoll, General Secretary

#### **Social Democratic Party**

Lars Midtiby, Party Secretary

## **Media Representatives**

### **Press Council**

Sanne Godthåb Olesen, Secretary General

### **DR**

Caroline Reiler, Director, Strategy Policy and Legal Affairs

Betina Bendix, Editor in Chief, DR News

Rasmus B. Mariegaard, Public Affairs Consultant

### **TV2**

Ulla Pors, Development Director

Anne Vig, Deputy News Editor/Journalist

### **Altinget**

Rasmus Nielsen, Editor in Chief

Niels Th. Dahl, Journalist

### **BerlingskeTidende**

Tom Jensen, Editor in Chief

### **Politiken**

Anne Mette Svane, Editor in Chief

## **Civil Society Representatives**

### **Danish Institute for Human Rights**

Christoffer Badse, Special Adviser