Venice Commission

Election dispute resolution, comparative approach
When electoral disputes can arise?
during:
- voter and candidate registration (or refusal)
- official campaign and media coverage
- decisions or inactions of election commissions etc.
- e-day: pre-opening, voting, closing, counting
What have been the recurring problems so far?

- unclear provisions in the law
- complicated or confusing provisions in the law
- expeditious procedures
- lack or impartiality or of effective remedies
- conflicts of jurisdictions concerning admissibility
- lack of substantiated judgments
About the 16th EMB Conference, 27-28/06/2019

- held in Bratislava
- on election dispute resolution
- more details at www.coe.int/EMB
About the existing instruments and case-law

- UN, Universal Declaration of Human Rights
- UN, International Covenant on Civil and Political Rights
- European Convention on Human Rights
- case-law of the European Court of HR
About the existing soft-law instruments

VenComm, Code of good practice in electoral matters

OSCE, 1990 Copenhagen Doc.

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Issues at stake concerning EDR

- competent bodies
- grounds for complaints
- persons entitled to complain – standing
- time limits
Competent bodies

- an election commission or a court; rarely a parliament
- procedures devoid of formalism
- avoiding risks of conflicts of jurisdictions
- a final appeal before a court, imperative!
Grounds for complaints

- remember the election cycle, a wide range of stages!
- also the decisions of elect. comm. or their inactions
- any type of errors
- obligation of the State to prevent and sanction irregularities and violations
Standing

☑ usually to both voters and candidates

☑ what about other categories of persons?

☑ such as election commissioners, observers

☑ any rules aimed at reinforcing trust in elections
Time limits

- shortness!
- both for filing a complaints
- and for deciding on complaints
- short time limits on appeal too
Decision-making power

- broad decision-making power to courts
- the sensitive issue of election results
- and their partial or full cancellation
- reasoning: infringements that may have affected results
In conclusion

- an effective EDR system provided by law
- procedural guarantees, devoid of formalism
- transparency and accessibility of EDR system
- reasoned and substantive decisions
Thank you!

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