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Venice Commission

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Election dispute resolution, comparative approach

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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.
- ✓ OSCE, 1991 Moscow Doc.



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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