Focus on Electoral Justice
Electoral Disputes are of political nature!

Disputes are inherent to any electoral process.

Electoral rights are fundamentally political rights.

Electoral Law is the most political of all the disciplines of Law.
A healthy electoral process does entail the possibility to resolve disputes well before e-day.

A high number of electoral disputes before e-day may actually be an indicator of a very healthy electoral process!
Permanent EDRMs are an investment in the quality of the democratic process.

EDRMs as a legitimising factor of the electoral process.

At what stage do permanent EDRMs become indispensable in the development of a democracy?
The higher the possibility to seek redress throughout the electoral cycle, the less number of disputes will arise in the post-election day period.

Permanent EDRMs relieve the EMBs from the burden of having to solve them all in the electoral period.
Electoral disputes are not necessarily of a judicial nature, complaints are!

Good practices include:

- conflict prevention mechanisms
- revocation or modification of the irregularity
- penalizing the offender
- alternative dispute resolution mechanisms
The Electoral Justice Concept

EDR Systems

Preventive System

ADR System
Arbitration and party bilateral mechanisms

Conflict mediation panels

Public exhibition period/Public disclosure period

Parliamentary Committee

EMB /Party Liaison Committees
AEDR Mechanisms?

- Parties bilateral mechanisms
- Arbitration and negotiation mechanisms
- Conflict Mediation Panels

Are AEDR mechanisms still such when provided for in the legal framework?

Are preventive mechanisms to be categorised as AEDR ones?
EDR – International Obligations

Right to an Effective Remedy (Art. 2 ICCPR)

- The overarching right. It triggers a set of principles that deal with the competency, effectiveness, appellability and transparency of the proceedings

- Does it require reparation?
- Does it require enforcement?
- Is the possibility to complain the only way to guarantee an effective remedy?
EDR – International Obligations

Right to a Fair and Public Hearing (Art. 14 ICCPR)

- Should the obligation to provide a fair hearing relate only to complaints that affect fundamental political rights?

- What do we say about EMBs with adjudicating powers?
EDR – International Obligations

Right to Liberty and Security (Art 9 ICCPR)

Right to Access to Information (Art 19.2 ICCPR).

Right to Equality before the Law (Art 26 ICCPR)

Right to require that the State takes necessary steps (Art. 2)
EDR Mechanisms

Legislative bodies

Judicial bodies
- Regular courts
- Constitutional courts
- Administrative courts
- Specialised electoral courts

Electoral Administration bodies

Transitory or “Ad Hoc” bodies
Basic principles

Independence of EDR Bodies

Independence and impartiality of EDR members

Accountability of EDR bodies and their members
  - transparency (clear and unequivocal procedures)
  - integrity
  - professionalism
  - efficiency
  - service-mindedness
The Database

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The Database
The Database

![Database Interface](image)

### Challenges to election results

<table>
<thead>
<tr>
<th>Country</th>
<th>Type</th>
<th>Type of first instance</th>
<th>Type of last instance</th>
<th>Who may file a complaint?</th>
<th>Filing fee?</th>
<th>Deposit fee?</th>
<th>Filing/deposit fee amount (local currency)</th>
<th>Maximum complaint time since incident</th>
<th>Maximum complaint time since announcement</th>
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<tbody>
<tr>
<td>Albania</td>
<td>Legislative</td>
<td>Electoral Management Body</td>
<td>Regular Court</td>
<td>Candidate/Party Representative, Political Party, Not applicable</td>
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<td>2 days</td>
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<td></td>
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<td>Not applicable</td>
<td>Not applicable</td>
<td>Not applicable</td>
<td>Hot</td>
<td>Hot</td>
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<td></td>
<td>Referendum</td>
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<td>Regular Court</td>
<td>Candidate/Party Representative, Political Party, Not applicable</td>
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</table>
What are they for?

✓ As a collection of global practices
✓ To present principles and guarantees for an effective Electoral Justice System
✓ To move forward the discussion on the international obligations for electoral dispute resolutions
✓ To encourage discussions over different electoral justice practices