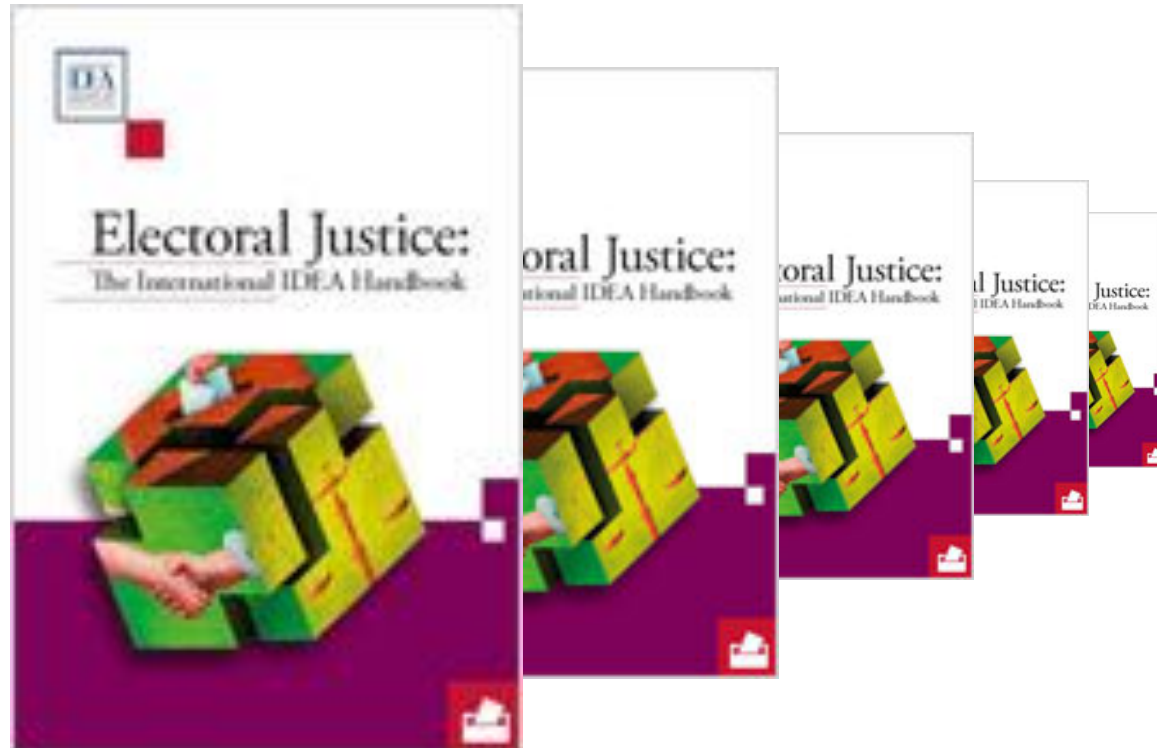


Focus on Electoral Justice



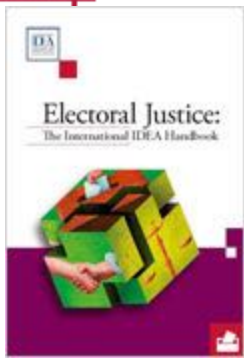


Electoral Disputes are of political nature!

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

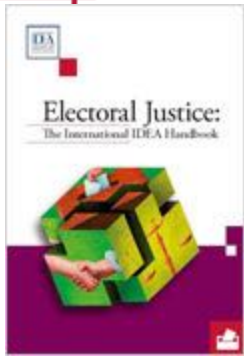




Electoral Disputes

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!



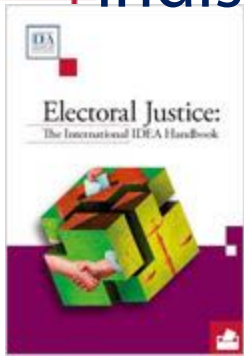


Electoral Dispute Resolution Mechanisms EDRMs

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?

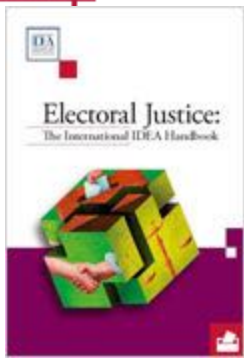




EDRMs cont'd

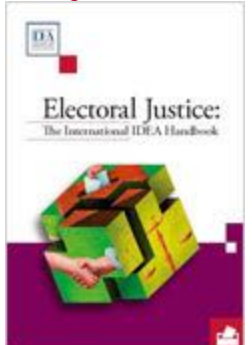
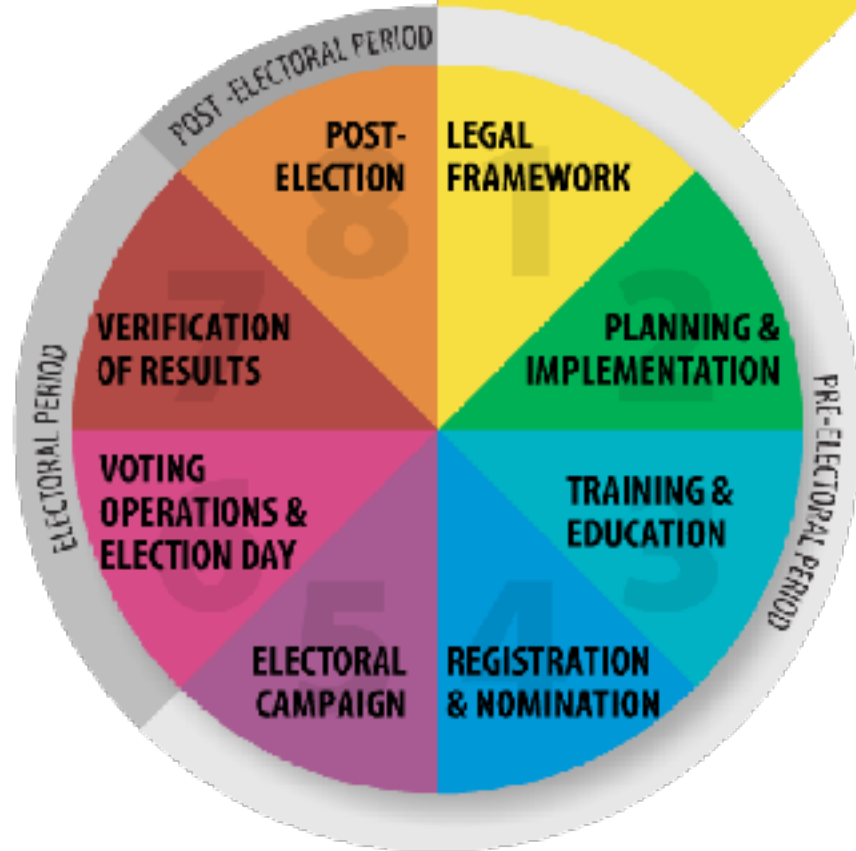
The higher the possibility to seek redress throughout the electoral cycle, the less number of disputes will arise in the post-election day period

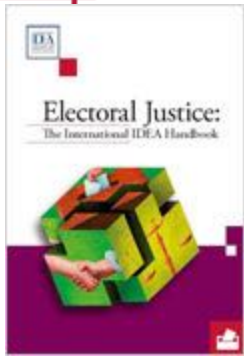
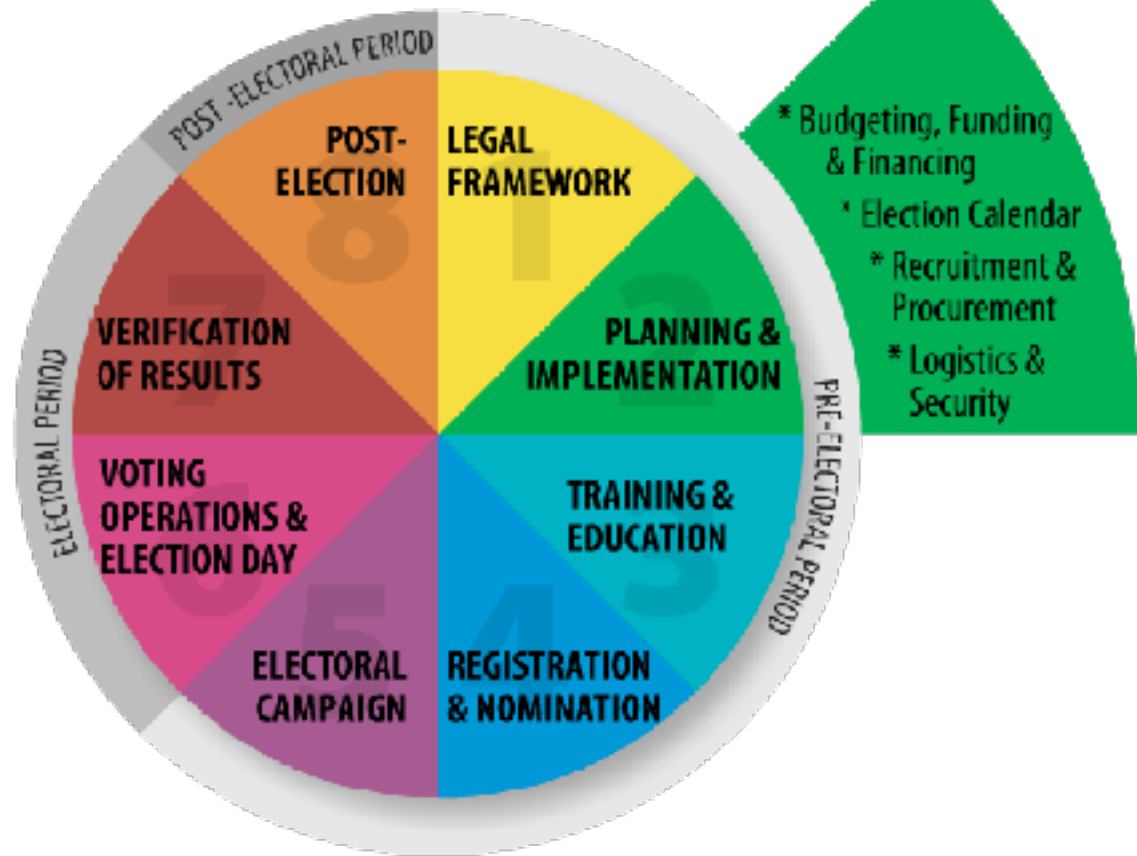
Permanent EDRMs relieve the EMBs from the burden of having to solve them all in the electoral period

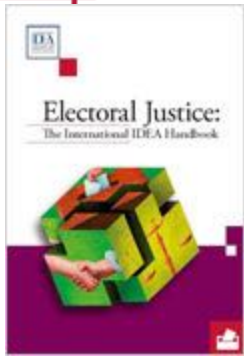
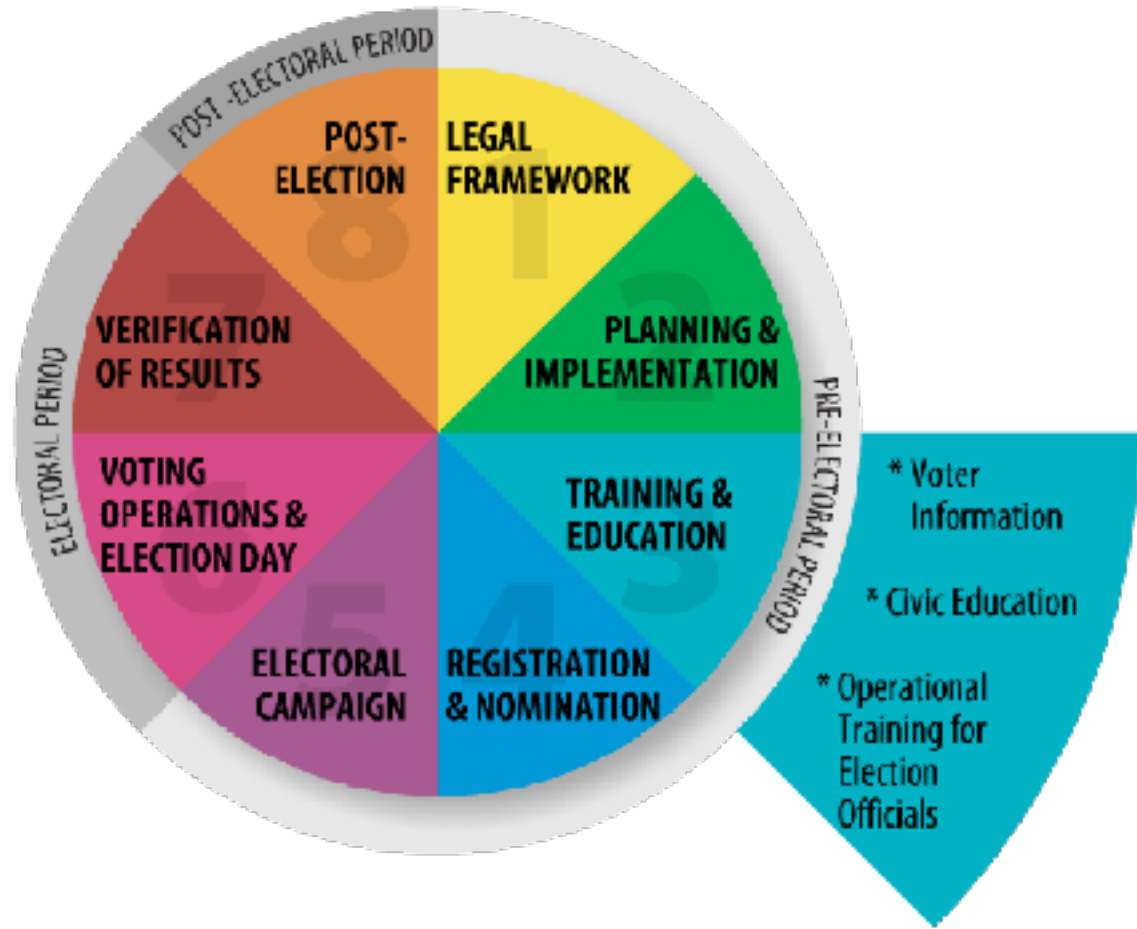


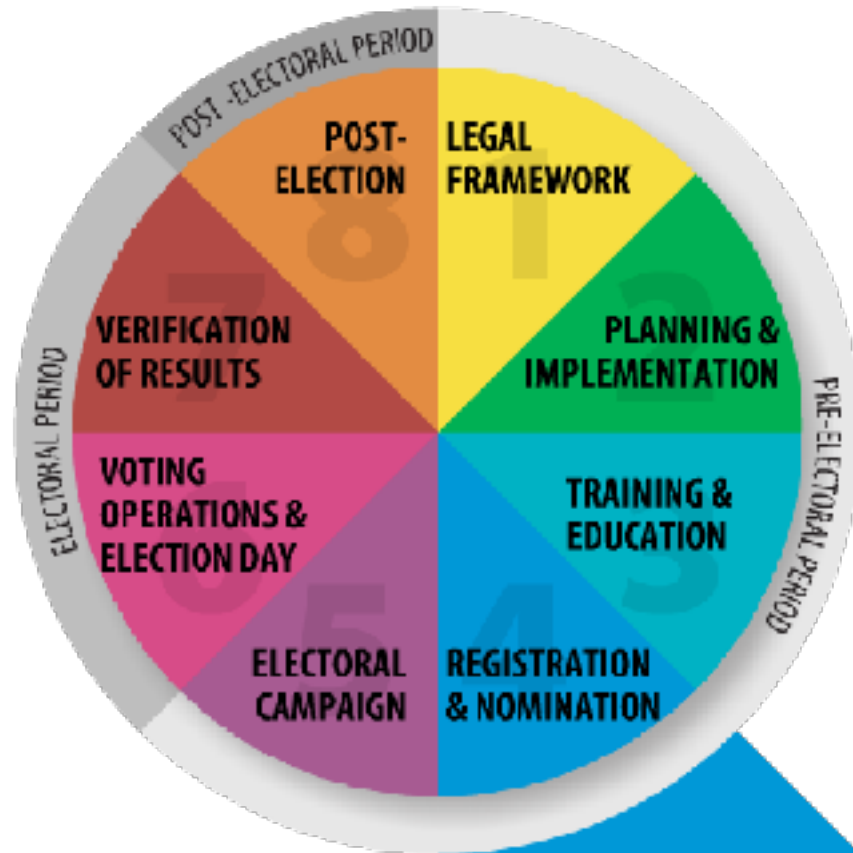


- * Constitution
- * Legislation
- * Electoral Bodies
- * Electoral System & Boundaries
- * Codes of Conduct

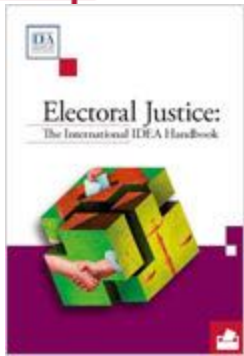


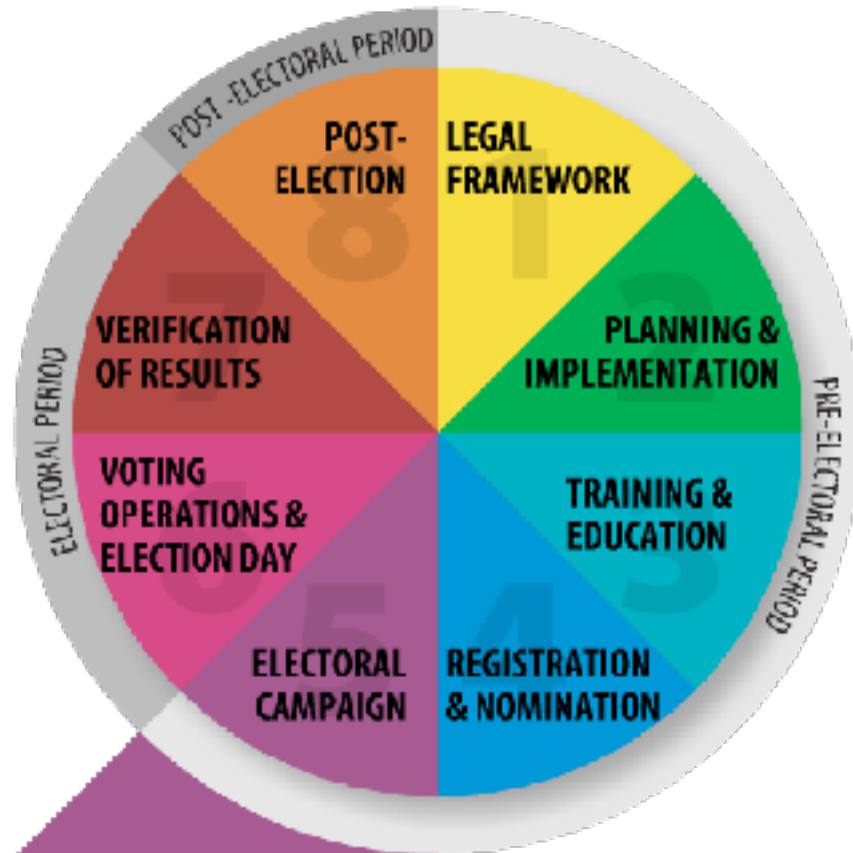




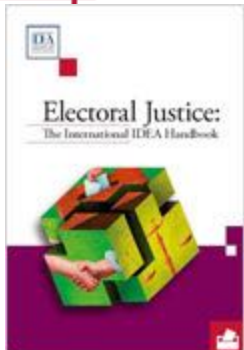


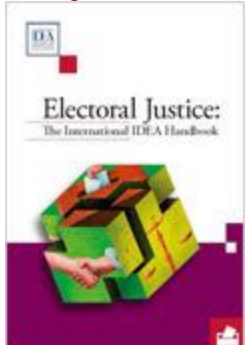
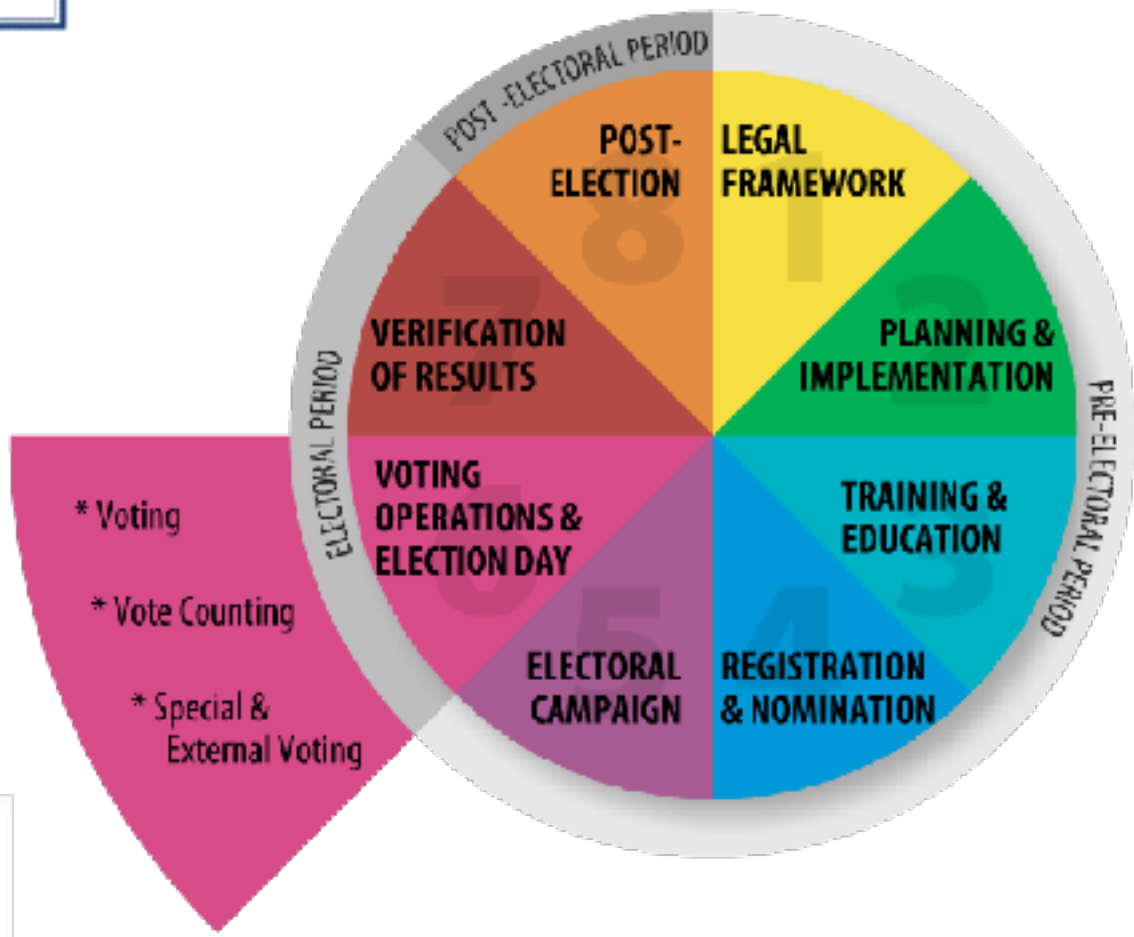
- * Domestic Observers
- * Observers Accreditation
- * Parties & Candidates
- * Voters Registration

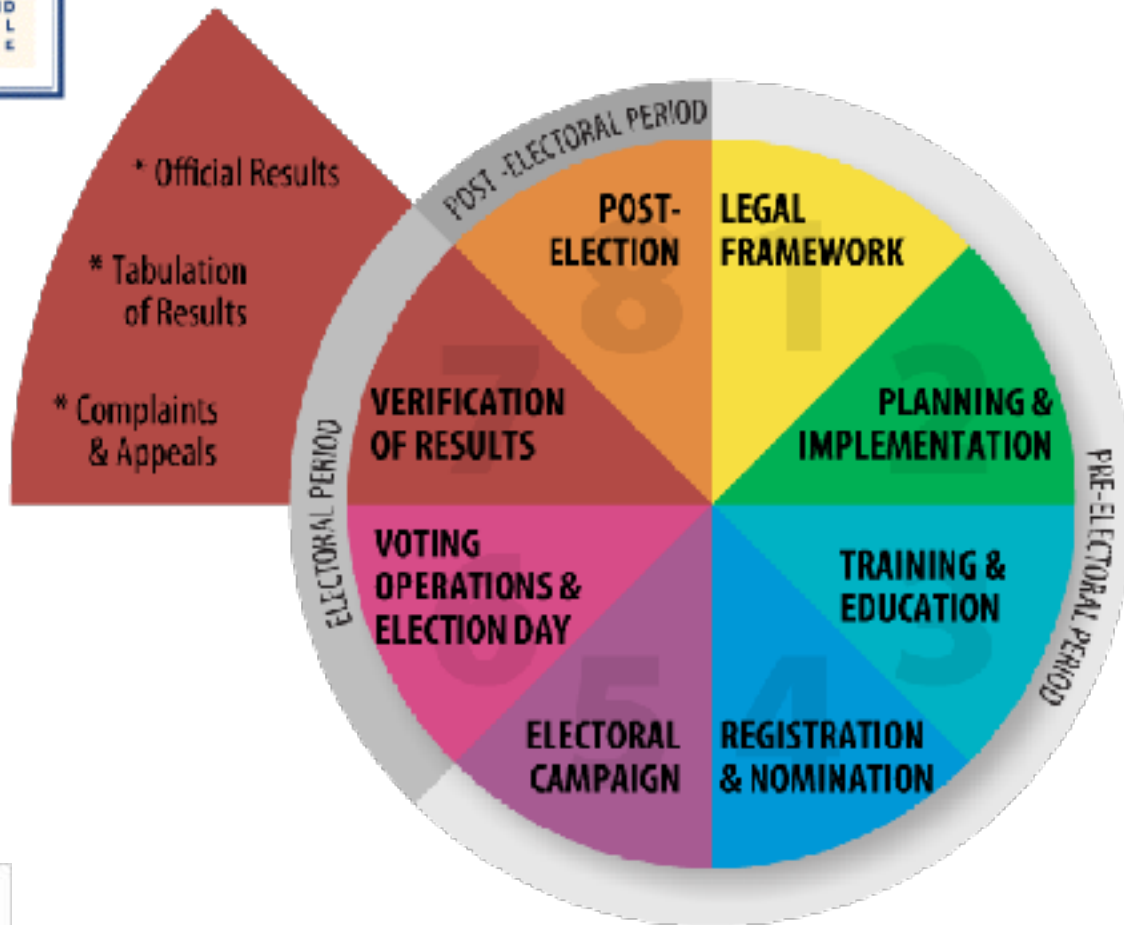


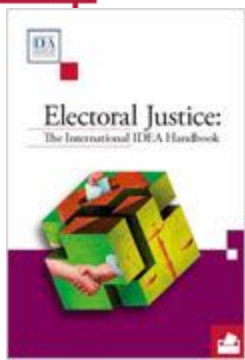
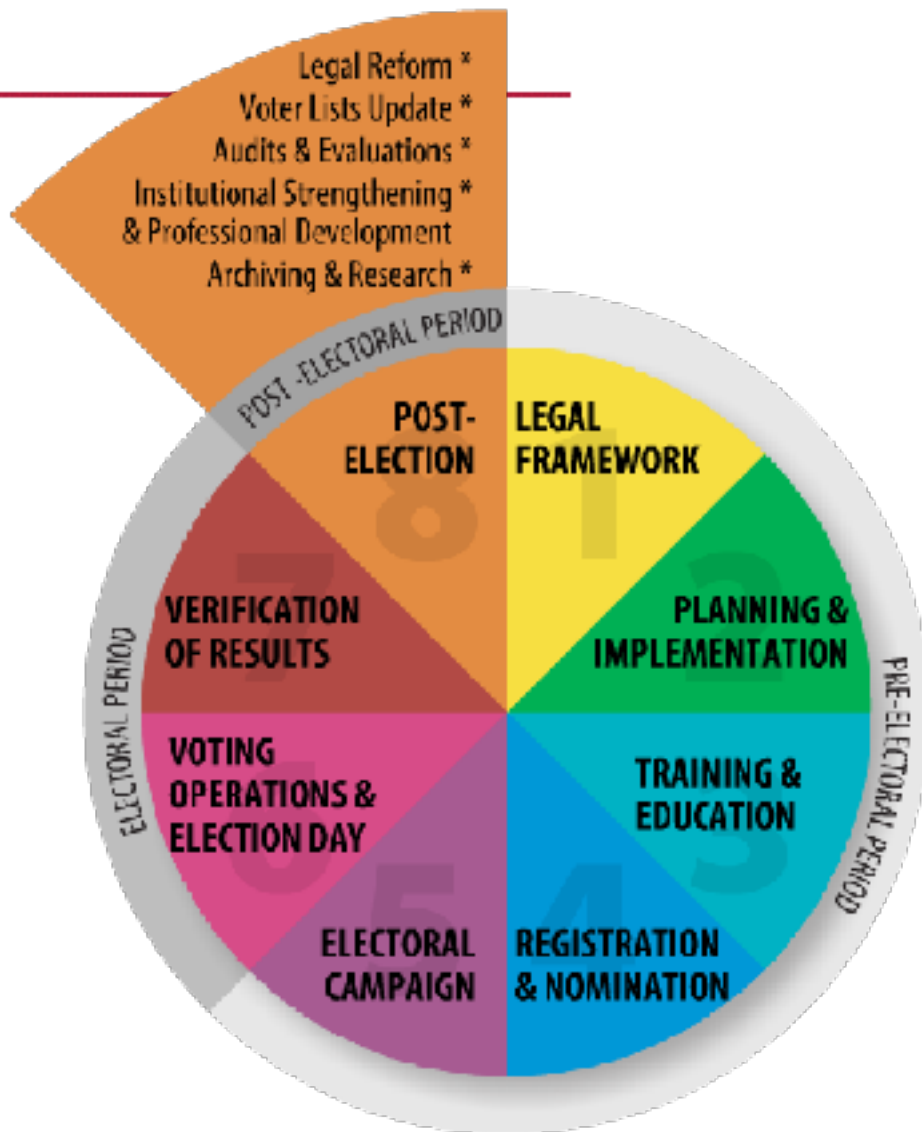


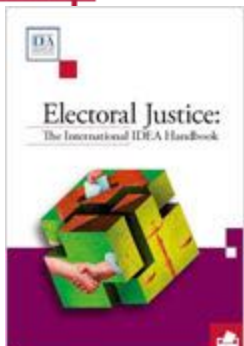
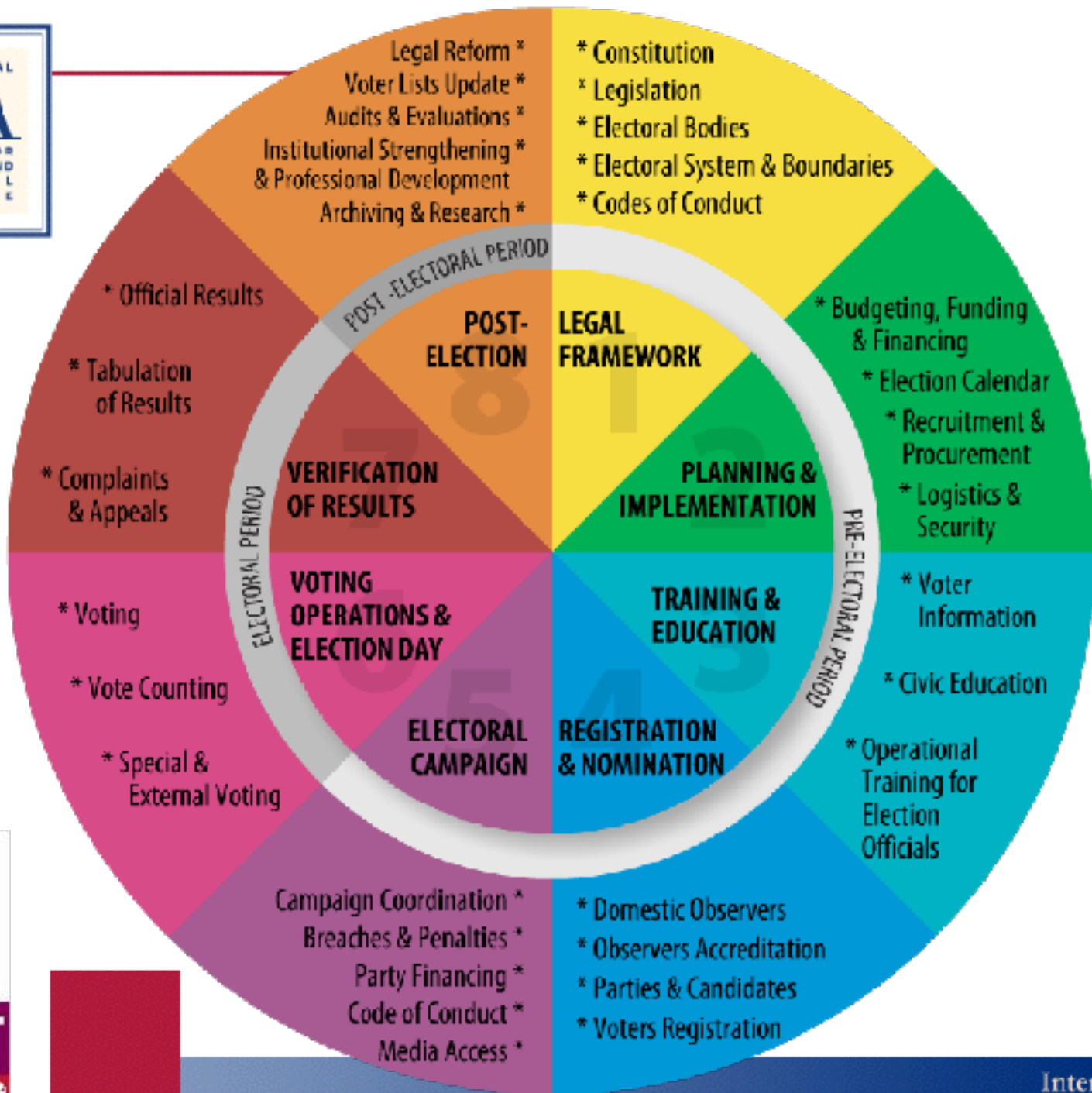
- Campaign Coordination *
- Breaches & Penalties *
- Party Financing *
- Code of Conduct *
- Media Access *











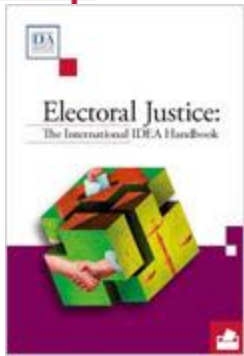


Electoral disputes

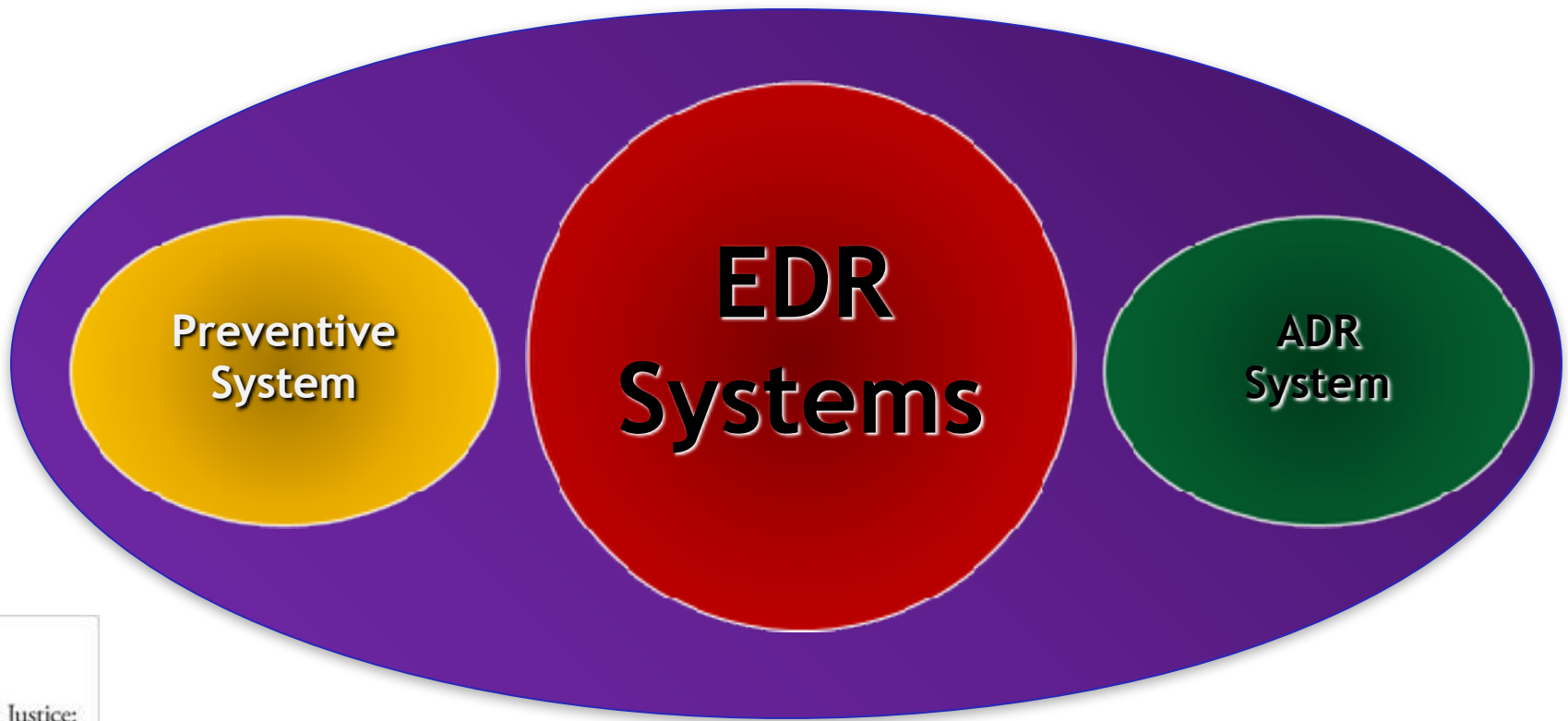
Electoral disputes are not necessarily of a judicial nature, complaints are!

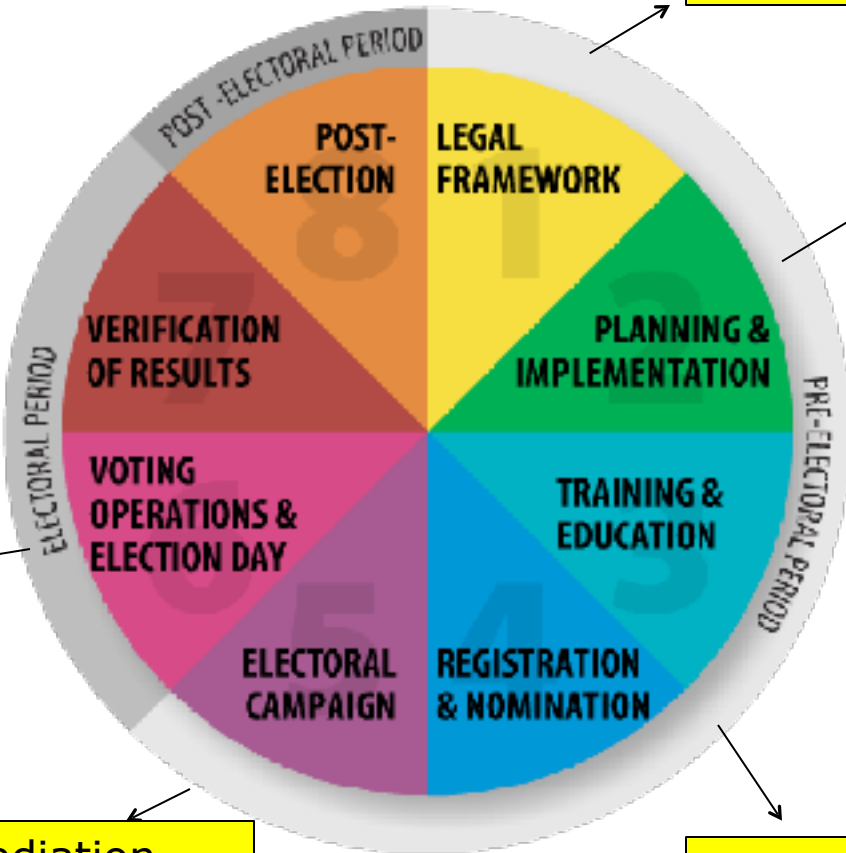
Good practices include:

- conflict prevention mechanisms
- revocation or modification of the irregularity
- penalizing the offender
- alternative dispute resolution mechanisms



The Electoral Justice Concept





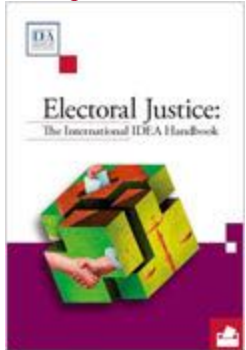
Parliamentary Committee

EMB / Party Liaison Committees

Arbitration and party bilateral mechanisms

Conflict mediation panels

Public exhibition period/
Public disclosure period





AEDR Mechanisms?

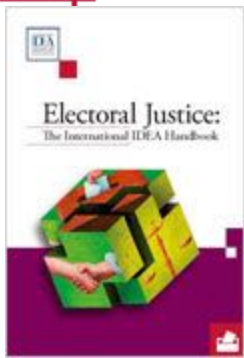
Parties bilateral mechanisms

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?

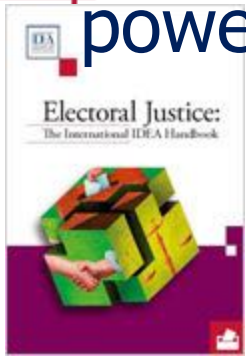




EDR – International Obligations

Right to an 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?





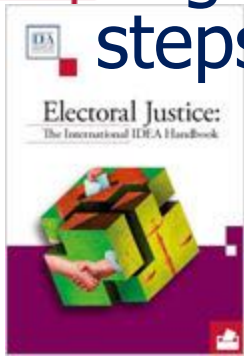
EDR – International Obligations

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

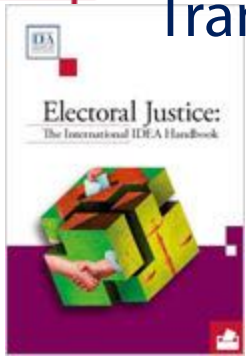
Legislative bodies

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

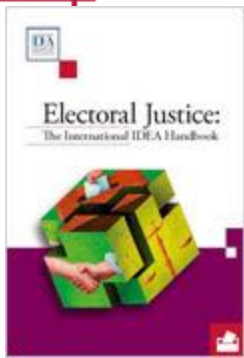
transparency (clear and unequivocal procedures)

integrity

professionalism

efficiency

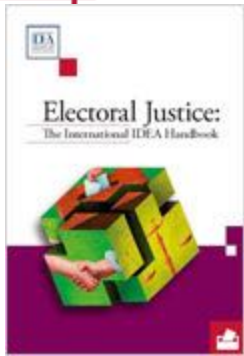
service-mindedness





The Database

www.idea.int/uid



The Database

Custom query

1. Select the geographic scope

All regions

Click on >> to add all countries listed in the left box, or > to add just the highlighted country

Afghanistan
Albania
Algeria
American Samoa
Andorra
Angola
Anguilla
Antigua and Barbuda
Argentina
Armenia

> >> < <<

2. Filter by type of election

Legislative
 Presidential Referendum

3. Choose dimension(s)

Challenges to election results
 Other electoral disputes

4. Select fields (all | default | clear)

<input checked="" type="checkbox"/> Type of first instance	<input type="checkbox"/> Filing/deposit fee amount (local currency)
<input checked="" type="checkbox"/> Type of last instance	<input type="checkbox"/> Maximum complaint time since incident
<input checked="" type="checkbox"/> Who may file a complaint?	<input type="checkbox"/> Maximum complaint time since announcement
<input type="checkbox"/> Filing fee?	<input checked="" type="checkbox"/> Maximum adjudication time
<input type="checkbox"/> Deposit fee?	<input type="checkbox"/> Number of levels of adjudication

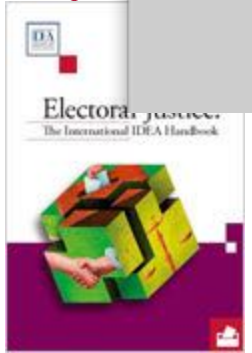
View or export to Excel or CSV

Page last updated October 19, 2010

International Institute for Democracy and Electoral Assistance (International IDEA)
Strömgården, SE-103 34 Stockholm, Sweden | Tel: +46 8 690 37 00 | Fax: +46 8 20 24 22
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The Database

This is a preview of the data. Close it using the X in the upper right corner to access the Electoral Justice Database interface.
Click a country to view that country's page. Click a field heading to see a summary and country details for that field. Click a data entry to view more details or suggest an update or correction or a missing entry to add a new one.

Download as [Excel](#) | [CSV](#)
[Scroll to legends](#)

Challenges to election results

Country	Type	Type of first instance	Type of last instance	Who may file a complaint?	Filing fee?	Deposit fee?	Filing/deposit fee amount (local currency)	Maximum complaint time since incident	Maximum complaint time since announcement
Albania	Legislative	Electoral Management Body	Regular Court	Candidate/Party Representative Political Party	No	No	Not applicable	2 days	2 days
	Presidential	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
	Referendum	Electoral Management Body	Regular Court	Candidate/Party Representative Political Party	No	No	Not applicable		
Armenia	Legislative	Electoral Management Body	Constitutional Court/Council	Candidate/Party Representative Electoral Management Body			Not applicable	1 day	1 day
	Presidential	Electoral Management Body	Constitutional Court/Council	Candidate/Party Representative Electoral Management Body			Not applicable	1 day	1 day
	Referendum	Electoral Management Body	Constitutional Court/Council	Election Observer Non-Governmental Organization /Civil Society Organization /Mass organization/ Trade union			Not applicable	1 day	2 days





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

