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16th European Conference of Electoral Management Bodies
Election Dispute Resolution: Observing Electoral Justice in the Americas**

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Salutations

It is a pleasure to join so many good friends and colleagues for this 16th European Conference of Electoral Management Bodies, and to engage with you on one of the key current topics in elections. Present today are many organizations and individuals with whom the OAS collaborates regularly and effectively in the context of our mutual objective to strengthen electoral processes and institutions at the regional and global levels.

I am grateful to the Venice Commission and to the electoral and state authorities of the Slovak Republic for your invitation. I look forward to what will certainly be stimulating and fruitful discussions.

Challenge of Observing Electoral Justice as International Organizations

As International Organizations, the observation of Electoral Justice poses a particular challenge as we try to define our role. Do we only observe the process of analyzing cases and dispensing justice? Do we take note of the judgements that affect elections, and which do not comply with international standards? What do we do?

At the OAS, and I expect among our partners, the consensus is that, as occurs with different aspects of the electoral observation process, we must take note of the issue, the process, the judgement and its impact on an electoral process, while ensuring that our analysis and reporting reflect the different positions that arise. That is, we observe the application of electoral justice and report, but we do not judge whether the decision was correct or not. After all, we are not an appellate body. Our role, as observers, is to observe.

Electoral Justice Systems in the Western Hemisphere

It is also important to observe the functioning of the electoral justice system and how it is structured. This is not a simple task as there are different structures in the Americas. They are:

1. **The electoral administrative and judicial bodies are two separate entities and the Court maintains oversight of the administrative functions.** This is the case in Mexico,

Chile, the Dominican Republic, Ecuador and now Honduras. In this system cases very rarely go to the Supreme Court.

2. **A single electoral body manages both the administrative and the judicial function.** Most electoral justice systems are structured this way. As the same entity is the Administrator, the Judge and the Jury however, problems may arise. Costa Rica, El Salvador, Brazil, Uruguay and Bolivia have a single-body system.
3. **The EMB is a separate body, and all cases are tried in the country's courts.** The USA, Canada and the countries of the Caribbean, follow this system.

As international organizations, we are asked to observe instances of electoral justice in all of these cases. The challenge for us therefore becomes, how do we observe so many different systems?

Attributes of an Electoral Justice System

The methodology for Observing Electoral Justice Systems, which OAS launched this year, is the only methodology in the world that is designed specifically to study this topic.

It is a standardized analytical tool which can not only be applied in different countries and different systems, but which will also facilitate long-term analysis of the application of electoral justice in the same country, across a span of years and in different electoral processes.

The methodology will allow OAS Electoral Observation Missions to assess the extent to which a country's electoral justice system meets accepted international standards and develop observations and recommendations to refine those mechanisms.

Procedural Guarantees

- Transparency, clarity, and simplicity
- Access to complete and effective justice
- Free-of-charge or at a minimal cost
- Timeliness
- Due process and the right to a defense or hearing
- Certainty and legal security

Inter-American Standards for the Delivery of Electoral Justice

- Judicial Function
- Non-judicial authority
- Due legal process
- Control of conventionality and constitutionality
- Obligation to provide ground for decisions
- Provision of an effective judicial remedy: effectiveness, accessibility, and efficacy

Observable Attributes of Electoral Justice

Attribute 1: Independent and Impartial Electoral Dispute Resolution Bodies

- Selection and appointment procedures
- Autonomy
- Structural guarantees
- Codes of conduct
- Legitimacy of Court's decisions
- Conventionality and constitutionality control

Attribute 2: Access to Justice

- Legally challengeable actions
- Authorized legal actors
- Formal procedural requirements
- Economic requirements

Attribute 3: Fair and Effective Process

- Timeliness
- Right to defense and participation
- Specificities of electoral justice
- Evidence
- Legal notification procedures
- Substantiation
- Available remedies

Characteristic 4: Administration and Transparency of Electoral Justice

- Publicity
- Accountability
- Security and legal certainty
- Codes of conduct and disciplinary proceedings
- Conflict of interest and professional standards
- Professionalization of electoral justice personnel
- Capacity-building

OAS Missions with Electoral Justice Experts

COUNTRY	ELECTION DATE	ELECTION TYPE
2019		
Guatemala	June 16, 2019	Presidential / Vice-presidential / National Congress / Municipal / Central American Parliament
Panama	May 5, 2019	Presidential / National Assembly / Regional Parliament / National / Local
Ecuador	March 24, 2019	Municipal / Local
El Salvador	February 3, 2019	Presidential
2018		
Peru	December 9, 2018	Referendum
Brazil	October 7, 2018	Presidential / Legislative / Regional / Regional Parliament
Mexico	July 1, 2018	Federal / Local
Colombia	May 27, 2018	Presidential
Paraguay	April 22, 2018	General Election
Colombia	March 11, 2018	Legislative
El Salvador	March 4, 2018	Legislative & Municipal
Costa Rica	February 4, 2018	Presidential & Legislative
Ecuador	February 4, 2018	Popular Consultation & Referendum
2017		
Honduras	November, 26, 2017	Presidential / Legislative / Municipal / Local / Regional Parliament
Nicaragua	November 5, 2017	Municipal
Haiti	January 29, 2017	Legislative / Local
Ecuador	February 19, 2017	Presidential / National Assembly / Popular Consultation / Regional Parliament
2016		
Haiti	November 20, 2016	Presidential / Legislative
Bolivia	October 2, 2016	Referendum
Colombia	October 2, 2016	Referendum

Dominican Republic	May 15, 2016	Presidential / Legislative / Vice-presidential / Municipal
Peru	April 10, 2016	Presidential / Legislative / Regional Parliament
2015		
Guatemala	September 6, 2015	Presidential / Legislative / Local
Mexico	June 7, 2015	Federal Elections
El Salvador	March 1, 2015	Legislative / Municipal / Regional Parliament