

## **Electoral Law:**

Electoral law is the legal instrument used to develop the majority of electoral topics that are relevant for a nation (especially in the case of those nations following the so-called civil law tradition). Electoral laws are enacted by ordinary legislators (legislative branches of government, chambers, congresses, assemblies, parliaments) in order to develop the general principles established by the Constitution.

Often, since electoral systems have to be legitimate, strong and permanent electoral laws have to be enacted by at least a two-thirds majority of congressional members.

There is neither a model to follow in order to enact electoral laws, nor a recipe to follow regarding their contents and structure. In some countries, for instance, electoral laws are contained in a single piece of legislation (code or statute), while in others, many codes or statutes contain electoral rules in a specific way (in such cases, there are specific codes to regulate electoral authorities, political parties, systems of appeals, and so on).

Whatever the intent to create a single election law, in great likelihood, “An election law neither can nor should contain all regulations relevant to the election process. The election process will require involvement of institutions and procedures that are based on other parts of the national legal system.” Among other matters, related legislation may be expected to include statutes providing for mass communication media, non-governmental organizations, the civil service, refugees and displaced persons, citizenship, military, use of state resource, access to information and civil and criminal codes and procedures.

Under the Constitution, electoral laws can regulate electoral topics including the following:

- The nature of representative offices, including seat allocation and term of office
- Individual rights to vote, to be voted, to associate freely with others and to affiliate to political parties
- Characteristics of the voting system
- Conditions that must be addressed by candidates to be elected

- Legal requirements for political parties (such as the requirements that they have to fulfill to be registered, members' rights and duties, funding, coalitions, and so on)
- Electoral authorities' main features (such as their structure, organization and powers)
- Geography and elections
- Registry of voters
- Voter education
- Electoral process (campaigning, election day, counting, and electoral results)
- Electoral planning
- Elections and the media
- Electoral integrity
- Disciplinary measures; system of appeals
- Electoral courts

Countries that have constitutional tribunals can also authorize electoral laws to be challenged on constitutional grounds. The highest court of the nation will be empowered to decide on such disputes.

Drafting electoral laws is a critical undertaking and should take care to use plain language where possible and avoid conflicting references. Usually, major changes to electoral laws cannot be undertaken if the electoral process is about to begin. Such a prohibition aims at preserving political stability and legal certainty. Once adopted, election legislation should be made widely known. In short, as the UN Report, *Women and Elections*, stresses, "The *election law* should be clear, comprehensive and transparent." Electoral laws cannot be enacted to detail electoral regulation related to specific, concrete, administrative or internal issues of electoral authorities. Such regulation must be contained in other normative devices such as executive orders.

Source: Encyclopaedia Britannica