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## Punch-up between High Court and Constitutional Council over who is in charge

Both the High Court (TS) and Constitutional Council (CC) took their electoral battle to parliament last week. The district counts come under the High Court, which says the district court can annul elections. The CC says the constitution gives the CC the right to rule on elections, so district courts can only be post boxes.


"What is happening is that the CC is usurping the competences of the TJDs [district tribunals], calling upon itself exclusively to invalidate the election, without any legal basis," says the Tribunal Supremo (TS, High Court). The CC responds that the constitution gives it the power to validate an election, which includes the power to declare an election null or void. To change that requires changing the constitution.

The 1990 constitution which established multiparty election gave the CC power "To make final judgements on electoral appeals and complaints, and validate and proclaim the election results." But asking an august Maputo body to decide on local protests did not work. In 2014 in negotiations with Renamo and its President Afonso Dhlakama, government agreed that district courts would be the lowest level electoral court. But courts are under the TS, while electoral issues are under the CC, and the division of responsibility remains unclear.

In earlier years the CC was more flexible, but last year it took a harder line. It says the district court can rule on a protest or complaint, but can only forward its decision to the CC. Similarly the CNE can only resolve administrative issues and forward the final count to the CNE. District courts and the CNE before fancy postboxes, forwarding issues to the CC but only being allowed to make comments.

This is not a legal debate, but a macho power struggle. The two big legal beasts in the forest are fighting to control the elections.

Papers submitted to parliament: Constitutional Council <https://bit.ly/Moz-EI-CC-AR> and High Court <https://bit.ly/Moz-EI-TS-AR>

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