

2018 Local Elections - 72

Mozambique Political Process Bulletin

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Final results as announced by the CNE and a table comparing final results to various parallel counts are available on <http://bit.ly/LocEI2018>.

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Constitution Council rejects 7 appeals on procedural grounds, but still might consider the issues

Seven district court cases claiming fraud and misconduct by local electoral authorities were rejected Friday and today by the Constitutional Council (CC) on narrow procedural grounds without considering the merits of the complaint.

Two of the most blatant cases remain to be decided, in Monapo and Alto Molocue where parallel counts - including by national electoral authorities - showed a Renamo win, but the district election commission acting in secret gave the win to Frelimo.

But the CC still can consider the evidence submitted when it considers the final results submitted by the National Elections Commission (CNE). In 2013 it did a detailed investigation which found that officials in both district and provincial elections commissions changed results sheets in Gurue, and it then ordered a fresh election in Gurue.

CC says cases submitted late and makes impossible demand for earliest challenge

The procedural faults are two fold - submitting late and failing to challenge at the lowest level. The law is clear that protests have to be submitted to the district court within 48 hours after the event, but in five of the seven cases this deadline was missed. The CC noted that the Matola city elections commission posted its results at 9.15 on Saturday 13 October which means that any court petition must be submitted by 9.15 on Monday morning 15 October, but Renamo did not submit until Tuesday.

Mozambican law in general and electoral law in particular requires any decision to be first challenged at the lowest level (impugnacao previa), to try to resolve things at the lowest level without going to court. Thus a challenge to the district level "intermediate count" should be made during the count or during that elections commission meeting. If it is

rejected, then there can be an appeal to the district court, and then the constitutional council.

In its rulings the CC has effectively confirmed that there is no way to challenge being illegally excluded from a meeting. The intermediate count is supposed to be open to party delegates, observers and press. Renamo says its election commission members and party delegates were excluded from some of those meetings and did not even know where and when occurred. Thus they could not protest at a meeting they could not find and did not know was occurring. But the CC has ruled, in effect, that there can be no court protest against being excluded illegally from a meeting because no protest was made at the lowest level protest - at that meeting being held by Frelimo election commission members in secret.

Comment: This gives Frelimo impunity for illegally excluding observers and opposition party members and will surely be used in the coming elections, unless opposition parties push for a change to this loophole in the law.

The 7 rulings so far

Matola, Renamo: Claim of falsification of the results and inability to attend the meeting setting the final results was rejected because it was submitted a day late, and because Renamo did not protest at the lowest level - at the meeting it was not allowed to attend.

Matola, MDM: Rejected because submitted late and did not protest at lowest level.

Beira, MDM: Demand for vote recount rejected because submitted late and for failure to protest at lowest level.

Lichinga, Renamo: Demand to annul results due to ballot box stuffing, falsification of results sheets, and violation of electoral material rejected because submitted late, and did not protest at lowest level.

Nhamayabwe (Mutarara, Tete) Renamo: Demand to annul election due to falsification of results sheets was rejected because of failure to protest at lowest level.

Marromeu, Renamo: Rejected because submitted late and for failure to protest at lowest level.

CNE changed Chimoio result

In 52 of the 53 municipalities, the National Elections Commission (CNE) validated the intermediate result from the city or district elections commission (CDE), but Chimoio is the only city where it did not. No comment was made when results were announced last week, but the CNE appears to have accepted its own provisional count and not that of the Chimoio CEC.

The CNE found an extra 459 votes, compared to the CDE intermediate result. It found an extra 582 invalid votes, and took 120 votes away from Renamo. The full details of the three different Chimoio counts are in our comparison table, on <http://bit.ly/LocEI2018>.

Interestingly, the CNE was prepared to use its own provisional count of polling station results sheets in Chimoio, where the change made no difference, but not in Alto Moloucucue of Monapo, where the CNE provisional count gave victory to Renamo and the CDE gave the victory to Frelimo.

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There are two archives of historic elections data, at IESE on <http://www.iese.ac.mz/eleicoes-resultados/> and at London School of Economics on <http://bit.ly/MozEIData> The LSE archive now has detailed 2013 and 2014 results, by polling station.

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