

2018 Local Elections - 73

Mozambique Political Process Bulletin

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Constitutional Council forces partial rerun in Marromeu but accepts other 52 results

In Marromeu the municipal election must be rerun in the 8 polling stations where police and STAE took the ballot papers before the count was completed, the Constitutional Council ruled this morning. But it validated the results of the other 52 municipalities, including three municipalities - Monapo, Moatize and Alto Molocue - in which parallel counts showed a Renamo victory but the district elections commission changed the result to give the win to Frelimo.

The rerun in Marromeu must be before the second Sunday after the decision, which means next week.

In addition the CC rejected the candidacies of several people who changed parties from MDM to Renamo.

The ruling was written by Manuel Franque, the Renamo nominated member of the Constitutional Council, and is on <http://bit.ly/LocEICC>

Law creates unconstitutional and impossible conditions - which must be followed

The CC said that law which excluded Samora Machel Junior and his citizens list AJUDEM in Maputo was unconstitutional, but the CC did not reverse the decision to exclude the list.

AJUDEM was rejected because candidates withdrew (under pressure from Frelimo) after the deadline to make substitutions, and thus the list was too short. The CC did not mention AJUDEM but said article 23 of the electoral law violated fundamental rights, and that all irregularities must be correctable except failing to meet deadlines or candidates not being registered to vote. The CC specifically says that article 23 prohibiting substitution "permits a manoeuvre in bad faith to eliminate competitors before the election".

The law also requires that protests be made at the lowest possible level. Thus when members nominated by the opposition are excluded from a meeting of a district election commission meeting because it is being held at a secret location with only Frelimo members, the excluded members must first protest at that meeting - clearly an impossible demand.

Thus district tribunals rejected Renamo complaints that they were excluded from district election commission counts which changed the results because they did not protest first at the district election commission meeting from which they were excluded. And the Constitutional Council rejected opposition party appeals about the changing of results at the secret meetings because district tribunals were correct to reject complaints not made first at the secret meetings.

The CC notes that it still has the right to consider the facts of cases. Thus the CC notes that it rejected the Renamo appeal on Marromeu because it had not protested first at lowest level (the meeting that counted the 8 polling stations, and from which it was excluded). But the CC went on to say that it considered that at the 8 polling stations in Marromeu there were "serious irregularities that put in question the freedom, justice and transparency of the election at the 8 polling stations," and thus the matter was considered and the rerun at those polling stations ordered. The obvious irregularities of taking the 8 sets of ballot papers before the count had been noted by the district tribunal, even though it rejected the Renamo protest.

On 8 November the CC had rejected the Renamo appeal against the National Elections Commission approval of the election results on the grounds that it was the same appeal that had already been rejected on procedural grounds by district tribunal and then the CC itself. Thus the CC did not consider the evidence that in three municipalities the district election commission had improperly changed the results.

Renamo defectors excluded

The electoral law does not allow a person to stand for a post from which they stood down during the previous term. This, in effect, means an assembly member cannot stand for a different party in the next election.

In its ruling this morning, the CC cancelled the election of four Renamo candidates who had been elected to the assembly in **Maputo** for MDM in 2013. They are Ismael Nhacucue, Armando Augusto, Ismael Cassamo, and Rui Munona. The election of the Renamo heads of list in **Xai-Xai** Mouzinho Gundurujo and **Tete** Ricardo Tomas were similarly cancelled because they had been MDM assembly members. In **Matola** the CC annulled the election of the MDM head of list, Silverio Ronguane, who had stood down during the previous term after being elected to the national parliament.

Extra votes for Renamo in Tete

In Tete the CC confirmed an earlier CC decision to give an extra 852 votes to Renamo in Tete. Renamo provided official copies of the polling station results sheets which it said showed it had gained 2205 more votes than the district election commission gave it, but the CC said that when it added up the Renamo results sheets it gave the party only an extra 852 votes, and it ordered these to be added.

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Special report on Gurué: 2/3 of polling stations suspicious, with misconduct on both sides

A close look at the election results in Gurué shows possible misconduct in 41 of 67 polling stations. It appears that both Frelimo and MDM were involved in fraud and misconduct. The full special report by this Bulletin is on: <http://bit.ly/LocEIGurue>

Three types of fraud were reported:

+ **Ballot box stuffing:** Gurué saw what appears to be a national phenomenon in these municipal elections, of polling station heads handing out extra ballot papers to supporters of the same party, who then deposited the extra votes in the ballot box.

Votes are counted at the polling station, and the polling station head holds up each ballot paper and declares "valid vote for X" or "invalid vote" or "blank vote", and the ballot paper is then put on a pile on the floor. If party delegates are not watching closely, this offers two possibilities of fraud:
+ **Using blank votes:** Typically 2% of voters do not mark their ballot paper and put a blank vote into the box. During the count, if no one notices, the president will give some of the ballots to their preferred party. If there are fewer than 1% blank votes, we consider that suspect.

+ **Calling votes invalid:** Although the electoral law says that an X or fingerprint should be put into the correct square on the ballot paper, it also says a vote is valid if the intent of the voter is clear. A president who is so minded can be strict and reject the votes for one of the parties if the X or fingerprint goes outside the box, even if the intent is clear. Many votes can be rejected in this way. This seems to have occurred in Gurué. Nationally in this election, 2.76% of votes were invalid ("nulo"). But in Gurué 6.47% of votes were invalid, and at three polling stations the invalid votes were an impossibly high 21%, 19% and 18%. We consider invalid votes over 6% to be suspect and over 10% to be obviously incorrect.

Both MDM and Frelimo were involved in fraud, often in the same school. Thus at Contape primary school, Frelimo gained extra votes in two suspect polling stations where MDM lost votes, but Frelimo lost votes in three others where MDM gained votes. At polling station 410105 there were 18% invalid votes, which were taken away from Frelimo. But at the same school at polling station 4101003 there were 14% invalid votes, which were taken from MDM. Our full report (in English) is on: <http://bit.ly/LocEIGurue>

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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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