

2013 Local Elections



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CC annuls Gurué election, citing 'flagrant violations of the law' by electoral officials

Police, CNE also criticised

"Flagrant violations of the law by polling station staff as well as the Zambézia Provincial Elections Commission" led the Constitutional Council (CC) to annul the municipal election in Gurué, in an unprecedented decision announced at a press conference this morning. (Acórdão nº 4/CC/2014, de 22 de Janeiro; <http://www.cconstitucional.org.mz/Jurisprudencia/04-CC-2014>)

The CC also criticised excesses by the police, including the illegal detention of MDM party delegates. And it criticised the National Elections Commission (CNE) for serious breaches of security which allowed ballot papers to be found outside polling stations even before voting started.

The CC rejected the appeal by MDM over Gurué because it was made too late, but went on to investigate and found a range of fraud and illegal activity by election officials. The CNE had declared Frelimo the winner, but copies of the results sheets (editais) given to MDM party delegates, as well as a parallel count, showed that MDM won. The CC investigation suggests that a significant number of election officials were involved in changing the results. The CC found:

- + Editais without the signature of the polling station president, or signed by the polling station president but with no stamp, from 13 of 49 polling stations.
- + Editais which had been altered, from 15 polling stations - some allegedly on instruction of the Zambézia Provincial Election Commission (CPE).
- + Editais written by the Zambézia CPE, not the polling station president, for two polling stations.

Each of these is a "flagrant violation of the law," the CC said. The CC then decided to do a recount of the ballot papers in three polling stations, which by law should have been kept by the Gurué District Election Commission. But the CNE then found that the ballot papers were missing, so no recount could be done.

Faced with such "grave irregularities" and "illegalities", the CC annulled the election of both the mayor and municipal assembly in Gurué, which will be held again. The CC then approved the results of the other 52 municipal elections, as announced by the CNE in December.

COMMENT: Editais without signature or without stamp were probably replacements for the originals, written after the official count in the polling station had ended, and copies of the original editais had been given to MDM delegates and observers. This would seem to confirm rumours in November that when Frelimo realised it has lost Gurué, it put pressure on its members who were polling station presidents to write new editais to give victory to Frelimo. It will be interesting to see if the 12 presidents who signed such editais will now be prosecuted. jh

Police action criticised by CC

Police action on polling day was heavily criticised by the CC in its ruling. It cited the "arbitrary detentions by the police of party delegates while they were carrying out their duties", noting that the "police know, or should know, that the electoral law guarantees immunity to these delegates." It also said that on polling day, some "police interventions were characterised by exaggeration and excess, notably the means used" - probably a reference to the use of tear gas.

The CC also criticises MDM for mobilising large groups of people to monitor the counts in various places in Zambézia, noting that people are supposed to leave the area of the polling station after they vote. But the CC goes on to note that party delegates are supposed to monitor the count, and that some had been arbitrarily detained by the police.

CC tells CNE to investigate violations

The CC also tells the CNE that it cannot leave investigations to the prosecutors office, and must do its own investigations, both to discipline its agents and improve its own security. Noting that the problem was not just Angónia, it points to the "existence of serious breaches of security. For example, the fact that ballot papers were found improperly in the possession of people outside the electoral administration even before the start of voting and outside of polling stations in various municipalities illustrate preoccupying vulnerabilities in the electoral administration. This could irredeemably undermine the confidence in the electoral agents, and this must be rigorously investigated." These are "extremely grave" violations by election staff.

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