

Mozambique political process bulletin



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Editor: Joseph Hanlon (j.hanlon@open.ac.uk)
Deputy Editor: Adriano Nuvunga News editor: Teles Ribeiro
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CIP, Centro de Integridade Pública
Rua Frente de Libertação de Moçambique (ex-Pereira do Lago), 354, r/c
(CP 3266) Maputo www.cip.org.mz cip@cip.org.mz
Tel: +258 21 492 335, 82 300 33 29 Fax: +258 21 492 340

AWEPA, the European Parliamentarians with Africa
Rua Licenciado Coutinho 77 (CP 2648) Maputo
Tel: +258 21 418 603, 21 418 608, 21 418 626
Fax: +258 21 418 604 e-mail: awepa@aweпа.org.mz

Election law changes

Significant changes have been made to the electoral laws. Some involve politicisation of the polling stations and the election administration secretariat (Secretariado Técnico de Administração Eleitoral, STAE), detailed on page 2. Other important changes include the way protests and missing candidates' documents are dealt with, and for the first time specifically allow recounts.

Renamo, the largest opposition party, boycotted local elections last year, and began military actions, attacking road traffic and police and military posts. In negotiations with government earlier this year Renamo agreed to end its boycott of elections in exchange for law changes. Parliament (Assembleia da República, AR) approved the changes in February, and the final revised laws were promulgated by the President on 4 April.

Courts for complaints

A constant complaint through all past elections has been the difficulty in making appeals and protests, which had to go through a chain of three elections commissions and were usually dismissed on procedural grounds. Thus the biggest change in the election procedures is to take ruling on appeals and protests away from election commissions and give it to district courts. The procedures are simplified, but district courts have little experience in dealing with election law.

During the electoral period, which is defined as being from the start of registration to the final validation of results by the Constitutional Council, courts must give total priority to electoral litigation. Any irregularity in voting or counting can be subject to an appeal or a complaint, which must be made within 48 hours of the publication of the results by

an election commission. The appeal or complaint is made to a district court, which must rule within 48 hours. Appeal is directly to the Constitutional Council, and must be made within three days.

Although any complaint should include all the appropriate evidence, the revised law says there is no official form and no restrictions on the format of the submission.

If a district judge finds that a criminal offense may have been committed, they can order the public prosecutors office (Ministério Público) to take action, and it must do so within three days. (Lei nº 4/2013 revised art 174, 175, 176; Lei nº 8/2013 revised art 192, 193, 194)

More time to find missing documents

Despite complaints that some are unnecessary and difficult to obtain, the five documents required of all candidates is not changed:

- notarised photocopy of an identity document or birth certificate
- notarised copy of a voters card
- certificate of no criminal record
- declaration that the candidate accepts the party agent
- declaration that the candidate is eligible to stand

Candidates for President must also present a detailed birth certificate and a certificate of "nacionalidade originária" which means either born to parents who were in turn born in Mozambique, or born in Mozambique before independence and never took another nationality, as well as notarised signatures of 10,000 registered voters who have not signed the nomination papers of another candidate.

Candidates for provincial assembly are also required to provide proof of residence in the province in which they are standing.

None of this is changed, and there have been complaints about candidates excluded because some of the documents were missing or incorrect.

The revised law gives parties and candidates five days to correct "any irregularity" in the papers for candidates for national and provincial assemblies, and seven days for candidates for President. (Lei nº 4/2013 revised art 161, Lei nº 8/2013 revised art 138, 181)

Party delegates

Party delegates at polling stations cannot be arrested while the polling station is functioning, and can only be arrested after all documents have been handed in to the district election commission. (Lei nº 4/2013 revised art 64, Lei nº 8/2013 revised art 58) This follows charges of abuse by the police in local elections last year; opposition party delegates were arrested, which meant they could not monitor the count and handover of documents.

Ballot papers

The number of ballot papers supplied to each polling station should be precisely 10% more than the number of registered voters. (Lei nº 8/2013 revised art 63) This applies only to the election for President and AR. For the provincial assembly, the previous wording is retained, which says the number of

Recounts

Recounts have been possible, but the law was unclear and they were rarely done. The revised law allows any party or candidate with "proof of irregularities", or the CNE or Constitutional Council, to demand a recount. This would be done by the district election commission in the presence of party delegates. (Lei nº 4/2013 revised art 178a, Lei nº 8/2013 revised art 196a)

ballots should be the same as the number of registered voters (without the 10% extra). (Lei nº 4/2013 art 69)

The law is clarified as to when ballot papers are destroyed. Invalid and protested votes are sent to the National Elections Commission, but valid and blank votes are kept by the district election commissions which under the revised law must destroy them (in the presence of parties, observers and journalists) after the Constitutional Council has validated the election. (Lei nº 4/2013 revised art 104, Lei nº 8/2013 revised art 97)

Campaign finance

Government money for political parties for their campaigns is to be distributed by the CNE, but only in proportion to the number of candidates standing. The previous law also took into account representation in parliament. (Lei nº 4/2013 revised art 44, Lei nº 8/2013 revised art 38)

Copies of register

An electronic copy of the electoral register will be given to all candidates 45 days before election day. (Lei nº 8/2013 revised art 43)

Politicisation of the electoral machinery

The revised electoral laws give the two main political parties, Frelimo and Renamo, a much larger presence in the electoral administration than in any previous election. The third party in parliament, the Mozambique Democratic Movement (MDM) also gains a presence, but much smaller than that for Frelimo and Renamo.

Elections commissions

The previous 13-member National Elections Commission (CNE) had 5 Frelimo, 2 Renamo (boycotted, so remained vacant), 1 MDM, 3 civil society, and 2 legal figures, a magistrate and a public prosecutor. The new CNE has 17 members, 5 Frelimo and 1 MDM (unchanged), 4 Renamo (up from 2), and 7 civil society (up from 3). The two legal figures are dropped. One Frelimo and one Renamo, but not MDM, have been promoted to new posts as vice-presidents.

At provincial and district levels, elections commissions until now have had 11 members: 3 Frelimo, 2 Renamo, 1 MDM and 5 civil society. The revised law adds 4 civil society members, bringing the total to 9 and the commission membership to 15. Again there are Renamo and Frelimo vice-presidents. (Lei nº 6/2013 revised art 6, 43, 44)

As part of the package, there was an informal agreement on two points: Moslem cleric Sheik Abdul Carimo remains president (chair) of the CNE, and Renamo has the right to name two of the four new civil society members of each election commission.

Civil society appointment procedures are not changed. Parliament (AR) names civil society members to the CNE and the CNE names those at lower levels.

STAE

The election administration secretariat (Secretariado Técnico de Administração Eleitoral, STAE) at national level has a permanent staff including a director-general and three department directors - organisation, training, and administration & finance. The revised law says that during electoral periods (from the start of registration to the validation of results by the Constitutional Council), there will be 26 additional political appointments: two deputy-director generals (1 Frelimo, 1 Renamo, no MDM), six deputy department directors (3 Frelimo, 2

Renamo, 1 MDM) and 18 other politically appointed staff (9 Frelimo, 8 Renamo, 1 MDM).

At province, district and city level during electoral periods there will be the same 8 high figures - 2 deputy directors and 6 deputy department heads, and 6 further politically appointed staff (3 Frelimo, 2 Renamo, 1 MDM). The law does not give any specific roles to these additional people. (Lei nº 6/2013 revised art 56, 57, 58)

Polling stations

The polling station staff (mesa da assembleia de voto) is increased from five to seven members, a president, vice president, secretary, and four scrutineers. Four are to be recruited as in the past by open application (concurso público) and, for the first time, one each named by the three parties in parliament.

Previously the law left it for STAE to select polling station staff. but the revised law creates a three-person jury of the STAE director and the Renamo and Frelimo deputy directors, who should normally act by consensus but in case of disagreement can vote.

The polling station can function if there are at least two of the four staff nominated by STAE, meaning people named by parties are not required to be present. (Lei nº 4/2013 revised art 54, 55, 56; Lei nº 8/2013 revised art 48, 49, 50)

Polling stations will continue to also have party delegates who observe and can file protests.

More than 40,000 posts

In all there will be more than 2200 party appointments to STAEs (more than 1100 Frelimo, 800 Renamo, and 300 MDM). There are likely to be 13-14,000 polling stations, each with one person appointed each by Frelimo, Renamo, and MDM. That gives a total of more than 40,000 paid political appointments to the electoral machine.

Gurué municipal election 8 February 2014

Mayor (Presidente)

| | | | | | | |
|------------|--------|-------|--------|-------|-------|--------|
| Registered | 36 672 | Voted | 15 121 | 41,2% | Valid | 14 357 |
|------------|--------|-------|--------|-------|-------|--------|

| Candidate | Partidy | Valid votes | NuV | Rec | Total | % |
|------------------|---------|-------------|-----|-----|-------|------|
| Orlando Janeiro | Frelimo | 6 389 | 45 | 5 | 6 439 | 44,8 |
| Jananquir Jussub | MDM | 7 680 | 53 | 5 | 7 918 | 55,2 |

| Blank | % of voters | Nulos | % of voters | Nulos validated | % of Nulos |
|-------|-------------|-------|-------------|-----------------|------------|
| 474 | 5,1 | 398 | 2,6 | 98 | 18,2 |

Municipal Assembly

| | | | | | | |
|-------|----|-------|--------|------|-------|--------|
| Seats | 21 | Voted | 15 115 | 41,2 | Valid | 14 228 |
|-------|----|-------|--------|------|-------|--------|

| Party | Valid votes | NuV | Rec | Total | % | Seats |
|---------|-------------|-----|-----|-------|------|-------|
| Frelimo | 6 532 | 25 | 2 | 6 559 | 46,1 | 10 |
| MDM | 7 623 | 44 | 2 | 7 669 | 53,9 | 11 |

| Blank | % of voters | Nulos | % of voters | Nulos validated | % of Nulos |
|-------|-------------|-------|-------------|-----------------|------------|
| 537 | 3,6 | 423 | 2,8 | 69 | 16,3 |

All ballot papers considered invalid (nulo) and all protested votes were sent to the CNE in Maputo for reconsideration. These tables show the process of requalification.

Valid votes = ballots in ballot box considered valid by polling station

Nulo = number of ballots considered invalid (nulo) by polling station

% voters = nulos and brancos as % of people who voted

NuV = Nulos validated = ballot papers accepted as valid by CNE

% nulos = nulos validated as % of nulos as counted at polling station

Rec = protested votes (reclamados) accepted as valid by CNE

Total = total valid votes including nulos validated and reclamados.