

# Mozambique Political Process Bulletin

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## 1300 observers & parallel count

*full article below*

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### 3 candidates reinstated

## CNE ‘flagrantly’ violating law says Constitutional Council

“Flagrant” violation of the law by the National Elections Commission led the Constitutional Council to allow three Renamo candidates to stand for mayor, even though they are clearly ineligible.

“It is manifestly clear that the CNE observes neither the procedures and deadlines legally set, nor the priorities they impose,” said the Constitutional Council (CC, *Conselho Constitucional*) in a ruling that was unusually harsh and critical of the National Elections Commission (CNE, *Comissão Nacional de Eleições*).

Allowing ineligible candidates to stand “is the sad consequence of lack of rigour and inobservance of the law” by the CNE. “The strict observance of the law is one of the essential guarantees of the transparency of the electoral process.”

The CC ruling upheld a Renamo appeal against the disqualification of three candidates for mayor - Benjamim Luís Garife Massangaice in Manica, Manuel Zeca Bissopo in Dondo, and Cristóvão Filipe Soares in Gorongosa. They had been included on the list of candidates approved by CNE on 8 October and published on 16 October, but then on 30 October CNE ruled they were ineligible because they did not satisfy the requirement that they had lived in the municipality for six months.

The CC is particularly critical of the CNE for apparently failing to read a 2003 CC ruling in similar circumstances, which states explicitly that the CNE cannot change the list once it is published. In any case, the 30 October ruling was well beyond the 20 October deadline for publishing candidates lists. And the CC notes that the CNE

made three decisions on the same day, 8 October, which were contradictory, both accepting and rejecting the candidates.

In its defence, the CNE said that the 16 October list was “not definitive” and that Renamo had always known that it still had to show that the three candidates were eligible, and they were removed from the list only when Renamo failed to do this. The CNE further claimed that in extending the deadlines, it was acting in a “spirit of collaboration” and “tolerance” to try to encourage maximum participation.

This view is totally rejected by the CC. It stresses that the law has no provision for publishing provisional lists and that “the deadlines fixed by law are mandatory and not optional, and cannot be replaced by others set by the CNE.”

The CC confirms that the three candidates “were in fact ineligible” but that once they were included on the published list, the CNE could not remove them. Lists become definitive according to the law, “and not according to internal and informal procedures and understandings of the CNE which are outside the law”.

As part of its ruling, the CNE rejected another Renamo claim. Renamo had argued that the election law itself was unconstitutional, because it required candidates to live in the municipality while the constitution gives citizens the right to live anywhere in Mozambique. The CC rejected this, saying it is reasonable to say that municipal governments should be made up of local people. This does not force any Mozambican to live in the municipality, but rather gives rights to people who do live there.

Because of the pending Constitutional Council ruling, STAE printed two sets of ballot papers for those three cities, with and without the Renamo candidates for mayor. Thus the election can go ahead on schedule.

The full ruling is available on the constitutional council website:

<http://www.cconstitucional.org.mz/UserFiles/File/Tsave/Acordaos/Acordao9cc2008.pdf>

The Constitutional Council website (<http://www.cconstitucional.org.mz/>) also has the rulings relating to the 2003 and 2004 elections, posted under *Deliberações*. More recently it has changed its terminology, and rulings this year are called *Acórdãos* which are in a different section of the website.

## **At least 1300 observers will monitor local elections**

At least 1300 observers will monitor local elections on Wednesday.

The Electoral Observatory (*Observatório Eleitoral*) is registering 1000 observers. It will have people in all municipalities, but is concentrating on 13 municipalities considered most sensitive, where it will also carry out a parallel count. It will have observers in every polling station in 11 municipalities – Marrimbo, Gorongosa, Gondola, Ulongué, Milange, Angoche, Ilha de Moçambique, Nacala Porto, Montepuez, Mocimboa da Praia and Cuamba. In Beira it will have observers in half of the polling stations, and in Matola 44%.

The Electoral Observatory is the most experienced local organisation and has observed several past elections as well as the most recent registration process. It is a joint initiative of AMODE (Mozambique Association for the Development of Democracy), CEDE (Centre for the Study of Democracy and Development), CCM (Christian Council), CISLAMO (Islamic Council), Catholic church, FECIV (Institute of Civil Education), LDH (Human Rights League) and OREC (Conflict Resolution Organisation).

FOMOE (*Forum Moçambicano de Observação Eleitoral*; Mozambique Election Observation Forum) will field 180 observers in six provinces: Nampula, Zambezia, Inhambane, Sofala, and Maputo province and city. It first observed elections in 2004. It is an association of NGOs in the National NGO Forum (*Fórum das ONGs Nacionais*, FON) seen as being close to Frelimo, as well as individuals, particularly university students and academics.

More than 90 foreign diplomats in Maputo will observe the election in 18 municipalities. This is being coordinated through UNDP and, for the first time, the diplomats are being given training in Mozambican electoral law and in observation.

Domestic observers are registered at provincial level, and it is possible that there will be several hundred more observers from local groups who will only observe in their own municipality.

After much discussion and the election observation rules saying observers can be registered for only one municipality, foreign observers were registered last week with the right to observe anywhere in Mozambique.

## **Observation delayed by CNE**

Observation rules were only published by the CNE last month, and registration procedures were changed two weeks ago, which has delayed observer registration and deployment. In two provinces, Maputo city and Inhambane, Electoral Observatory monitors have still not been issued their credentials, making it difficult to monitor the campaign.

The Electoral Observatory gave its observers a one-day training in several locations in each province, and the observers all filled in their forms, which the Observatory submitted to provincial election commissions. Only then were they told that the form had changed, and the forms had to be filled in again and resubmitted. Since forms must be submitted at provincial rather than municipal levels, this meant observer coordinators in some cities had to travel hundreds of kilometres extra to resubmit the forms.

Response by individual provincial election commissions has been variable. The Sofala election commission refused to issue credentials until it had received badges (*crachá*) from the CNE that it could issue at the same time, so credentials were only issued Friday 14 November. Other provinces issued credentials without badges, which they said they would supply later. Cabo Delgado took two days to issue credentials, Niassa took 14 days. In two provinces, Maputo city and Inhambane, credentials have still not been issued, with no explanation.

Colour photos were required of all applications and black and white photos were rejected; this was eventually waived only for the two municipalities of Niassa which do not have facilities to take colour photos.

Sheik Abdul Carimo, spokesman for the Observatory, said that he felt that there was a positive attitude in the CNE and praised its President João Leopoldo da Costa. But he said there were real problems at lower level and a need to be "better organised and less bureaucratic". He noted that observer regulations were issued without discussion with observer groups, which inevitably created a bad feeling and mistrust. Those regulations say observers have access to a wide range of decisions and documents, but this has not been provided, with the elections only days away.

### **3125 polling stations**

There will be 3125 polling stations (*mesas de assembleia de voto*) in the 43 municipalities (*autarquias locais*). Polling stations will have 15,625 staff, and STAE is deploying 400 vehicles for the one day election on 19 November.

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