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## Renamo proposes law changes to prevent recurrence of last year's frauds

For the parliament session starting 22 February, Renamo has proposed major changes to the electoral law, to try to prevent a repeat of the frauds and misconduct in the 2023 municipal elections. Renamo calls for increased transparency and a ban on secret changes of results. There would be recounts or new elections instead of secret changes. MDM has tabled a shorter list of proposals. Renamo's full proposal is on <https://bit.ly/Moz-EI-217-Ren>

Renamo has tabled a controversial proposal to deal with the problem of district courts and the Constitutional Council sometimes refusing to deal with some misconduct because they are "crimes" and not merely electoral offenses. For example, ballot box stuffing is both a crime and can affect the outcome of the election, and if simply referred to the public prosecutor (Ministério Pública, MP), there will be no reply before the election results are declared.

The present electoral court system is an ad hoc mixture. The Constitutional Council, which is not a court, has been made the supreme electoral court. District courts have been made electoral courts with special rules on evidence and acting quickly. So adding the MP to the electoral court system could create a way forward. Under the change, election complaints and appeals could be made either to the district court or to the MP, which would have to rule within 72 hours. (There is a detailed note at the bottom.).

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## New transparency would include live reporting of counting

Renamo's proposals call for a major increase in transparency. Renamo proposes that during the initial count in the polling station, "In the interests of electoral transparency, the counting of votes may be accompanied by immediate publicity of the proceedings, and party delegates may capture images, sound, film or live for public consumption." Live report of counts would be a huge increase in transparency.

The city or district tabulation is now done in secret by STAE, but Renamo proposes that STAE staff putting the numbers into a spreadsheet be monitored by election commission members to compare

the data and ensure numbers are not being changed, and similarly for typing out handwritten minutes.

All key documents would be posted on the web, at local and national level:

+ At city or district level within 20 days a scanned version of all original polling station and CDE minutes and editais would be posted locally on the web.

+ The Provincial Election Commission would post on the web their original minutes and editais (results sheets) within 5 days.

+ And within 20 days of submitting the final results, the National Elections Commission would post on the web the original editais and minutes from all levels - polling stations, district, and province.

This information has never been easily available and would make it much easier to quickly report frauds.

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## Recounts instead of secret changes

Renamo would bar most of the current secret changes by STAEs and electoral commissions, and replace them with recounts. as in most democracies. It proposes: "The District Judicial Court and the Constitutional Council may not, of their own initiative, transfer votes contained in the minutes and editais, and the entire process of ascertaining the electoral truth contained in the minutes and editais must be carried out by recount".

The Constitutional Council last year declared that only it could order new elections in response to misconduct, but Renamo proposes that district courts and the MP could also order recounts and new elections. Any recount would have to be in the presence of a magistrate (see below).

There are two types of recounts. At a polling station it can be recounts of the actual ballots, carried out as a new count, which is already in the law but has never been used. Renamo proposes a re-tabulation of the polling station editais by the district elections commission (CDE), which under the Renamo proposal would have to be done within 48 hours of being ordered by a court of the CC.

In the district tabulation or a re-retabulation, polling station editais being must be shown to each party delegate present to compared it with their own copies. If they don't match, the party delegate must immediately report what element is not matching. If there is disagreement between two different editais for the same polling station, the case would immediately go to the MP or district court. Renamo proposes that editais for the same polling station which disagree must be compared to check signatures, form numbers, handwriting, and other distinctive signs.

Fake editais are not even considered in the existing law, and last year district courts did not know how to deal with them.

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## Small changes to catch tricks

Renamo proposes a number of individual changes.

To stop Frelimo naming polling station staff, Renamo calls for the jury composed of the director, deputy directors (Frelimo and Renamo), and a technician from the third party (MDM). If there is no decision by consensus, there must be a statement by those who lose the vote.

To prevent some of the stalling by polling station heads which occurred last year, Renamo proposes a break of no more than an hour before counting starts. The counting then continues without break until the edital is posted, and copies distributed.

To prevent ballot box stuffing with ballot papers from other polling stations, the polling station presiding officer during the count must read out the series number to show it is from this polling station.

Renamo also calls for:

- + ending the ban on opinion polls during the campaign and voting process.
- + transparent voting booths
- + that the party delegate in the polling station cannot be arrested until after the count.
- + in a polling station if there is a vote and the chair uses a casting vote, it must be justified.
- + nullifying an election for a range of infractions including arrest of a party delegate and if any part of the count is done outside the polling station, and
- + penalties for electoral crimes would be increased, and would be increased further for presiding officers, for example for refusing to accept protests, not posting the edital, and falsifying documents.

MDM has submitted a shorter list with many of the same proposals, including:

- + District courts could demand recounts,
- + Jury for selecting polling station members,
- + Immunity for party delegates, and
- + use of editais given to parties if there is a discrepancy

[MDM has submitted changes](#) for both Lei 2/2019 de 31 de Maio which governs the election of the President and of deputies of the Assembly of the Republic and Lei 3/2019 de 31 de Maio which governs provincial assembly and governor elections.

Renamo proposes to amend 35 articles and add 12 new articles but has only submitted changes to the first law, and they would have to be applied to the second law as well.

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## **Note on Mozambique's court system:**

The **Ministério Público** (MP) is the Public Prosecutor (and not a ministry, despite the name). Under the MP are:


- + **Procuradoria-Geral da República** (PGR): Office of the Attorney General
- + **Magistrados**: Magistrates. This is an examining magistrate system, so the Procurador-Geral da República (confusingly, also PGR; Attorney General), Procuradores-Gerais-Adjuntos (PGA; deputy attorney general), and Procuradores (prosecutors) are magistrates.

**Tribunais** judiciais are courts, and are a separate system under the **Tribunal Supremo** (Supreme Court)

The Ministério da Justiça, Assuntos Constitucionais e Religiosos includes both MP and courts.

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