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Venâncio Mondlane rejected again but CC never considered key issue

Venâncio Mondlane's attempt to stand for Renamo for mayor of Maputo ended with the Constitutional Council (CC) ruling that he could not appeal twice. This means the CC never considered on the actual issue - that the National Elections Commission was wrong to bar him from standing because he resigned from the municipal assembly when he was elected to national parliament in 2014.

The first appeal challenged the constitutionality of the law but not the decision, and the CC ruled that Renamo as a political party did not have standing to raise a constitutional issue. So Mondlane appealed again on the issue itself, but the CC said he could only appeal once.

Lawyers point out that the constitution is clear and it was obvious that Renamo could not appeal against the constitutionality of a law, and do not understand why Renamo did not appeal against the decision as well. Nevertheless, some jurists argue that the CC could and should have considered the substance of the argument even if Renamo did not properly raise it. Was the CC shying away from deciding on the matter of substance so as not to be criticised by either Frelimo and Renamo in a context of the search for peace and national reconciliation?

Renamo has accepted the CC rulings and is now presenting Herminio Morais as head of list and

candidate for mayor. He was number two and automatically moves into the top spot.

CC says late start is no excuse

A Mocímboa da Praia citizens list waited until the last minute to collect required documents for its candidates and failed. It appealed to the Constitutional Council (CC), which rejected the claim - starting late is not an acceptable excuse. But it is an unfortunate loss as Mocímboa da Praia is the centre of the small "Islamist" insurgency and thus an independent force in a traditionally divided town could have provoked interesting debate.

The group is the Association of Natives, Friends and Supporters of Mocímboa da Praia (Associacao dos Naturais, Amigos e Simpatizantes de Mocímboa da Praia. UMODJA).

Each candidate must submit five documents, the most difficult of which is the certificate of no criminal record, which is often delayed. In its appeal to the CC, it said that the criminal record certificate could only be applied for in person at the Cabo Delgado provincial capital, Pemba. The 25 list members arrived there on 9 August, just five days before the 13 August deadline. The computer

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system was down and on the first day only three certificates were issued. By the 13th, six certificates were still missing, so UMODJA submitted an incomplete list, which was rejected by the CNE.

UMODJA also complained that the CNE shortened the time available to submit candidates because of the delay in approving electoral legislation in parliament in July. The original calendar allowed 23 days, 5-27 July. Only on 5 August did the CNE announce that submission of

candidates lists would start the next day, 6 August, and continue until 13 August - a period of just eight days.

This newsletter noted at the time that this would create problems for small groups. But in practice the delay actually gave parties and lists two extra weeks to obtain documents, and across the country most parties continued to work to the 27 July deadline and so were able to obtain all their documents.

Comment: Strict for you, flexible for me

Mozambique's electoral law is complex, contradictory, and rigid - and both Frelimo and the opposition decline opportunities to clean it up - most recently in July when parliament approved the revised municipal elections law. Each candidate must supply five documents, some notarised, which is not a requirement in most countries; even for small parties and citizens lists, the candidates list must have enough people to fill all assembly seats plus three, even though they have no hope of winning all the seats.

Even the big opposition parties seem happy to create hurdles for new challengers, although the complex rules mainly benefit Frelimo which has more lawyers and is better organised.

Two citizens lists - AJUDEM in Maputo and UMODJA in Mocímboa da Praia - were caught out by leaving two little time to get enough candidates on their lists. Venâncio Mondlane and Manuel da Araújo were both caught out by not having lawyers read the law closely enough - and failed to ask for changes in key clauses in July in parliament when it was possible because there was a mood of consensus.

Even Renamo has been caught out. The official campaign, which starts 25 September, gives special rights to candidates, including having marches without advance permission. But until then, the normal law applies, and written advance notice must be given. Frelimo is organised enough to do that. But Renamo demands flexibility, saying the campaign period law should be applied now, and to not to do so is to discriminate against them and is unfair.

Everyone wants the law to be strict and complicated to restrain the other side, but demands flexibility for themselves. *jh*



Police and Renamo in Maxixe yesterday discussing the Renamo national brigade's late arrival. Renamo had applied for a meeting starting at 13.00 and the brigade finally arrived at 16.00. Photo: Luciano da Conceição

Araújo remains mayor and candidate

Manuel de Araújo submitted his appeal to the Administrative Tribunal (TA) on Monday, which automatically suspends the Council of Ministers (CM) decree that he had lost his post as mayor by standing for another party (from MDM to Renamo). Thus he remains head of the Renamo list and candidate to be re-elected Mayor of Quelimane.

Speaking to the Bulletin, Araújo said he was challenging the CM decree on two grounds. First, because the CM did not allow him to defend himself, which he says is required by law. Some lawyers contest that, saying the an official document which give irrefutable proof is enough.

The law says a mayor loses their post if they stand for another list, and the Renamo list approved by the CNE is such an irrefutable document.

Second he argues that right to party membership is included in the constitution, and is

part of free association, and thus a person cannot be penalised for changing parties.

The law does not give any time limit for the TA to consider the appeal. If it moves unusually quickly, and decides against him before the 10 October election day, he loses both his post and his place on the candidates list. But if not, he remains mayor and a candidate.

If he loses his appeal, he would be replaced by the second on the Renamo list, Latifo Charifo, who has been a previous Renamo candidate for mayor.

Samito blames some “comrades”

Samora Machel Jr. ("Samito") told a press conference Wednesday that he accepted the CC decision that his youth association citizens list AJUDEM could not stand. He blamed the work of a group of Frelimo "comrades" for the withdrawal of some members of his list, and made clear he would continue to be a thorn in the side of Frelimo. "As one door closes, another opens," he said.

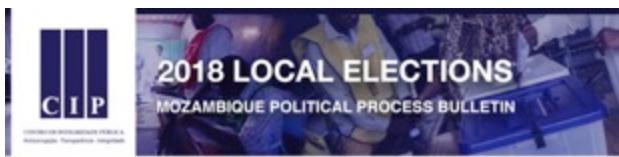
The son of Samora Machel and Josina Machel, two national heroes, and a member of Frelimo's Central Committee, he became the first national figure to stand against the party.

His position in Frelimo is now unclear; its statutes bar membership of another party, but standing for a citizens list is less clear.

Candidates can go to religious meetings but not campaign

Last weekend, many candidates for mayor attended church or other religious services and sometimes were announced as attending and as heads of lists. This has raised some questions, including from our correspondents, because the law bars campaigning in religious buildings.

The constitution guarantees the right to attend religious meetings, and prominent figures who attend are often pointed out. It only becomes improper if the candidate or person conducting the service encourages a vote for the person.



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Detailed coverage of 2018 municipal and 2019 national elections is again being provided by the *Mozambique Political Process Bulletin*, which has covered all of Mozambique's multi-party elections. We will have a large team of local journalists throughout the country, ensuring that our reports are accurate and verified.

The elections newsletter is also in Portuguese; para subscrever <http://eepurl.com/cYjhdb>. Previous issues of this year's newsletter are available on <http://cipmoz.org:9000/elections2018/>. Newsletters from 2013 local elections and 2014 national elections are on <http://bit.ly/2H066Kg>. 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>.