

Mozambique political process bulletin

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CC rejects MDM appeal; says MDM had too few candidates

In a unanimous decision, the Constitutional Council rejected the appeal of MDM against the exclusion of its lists from most provinces. It upholds the CNE's interpretation of the law, and publishes lists of unqualified candidates to show that MDM simply did not have enough candidates in most provinces.

The CC agreed with the CNE view that it is not acceptable to simply submit the name of a candidate with no supporting documents, and thus the opportunity to correct errors or gaps in documents does not extend to submitting the entire file. The CC also accepted the CNE interpretation of the law that no candidates could be submitted after the 29 July deadline, and thus there could be no substitutions after that date.

The CC then lists all of the MDM candidates excluded or asked for further documents, and gives the reason (which until now the CNE has refused to do).

Election to national parliament is by party list. Each province is a constituency and each party must submit a list of candidates of at least the number of seats for that constituency (45 for Zambezia, 16 for Gaza, etc) plus three extras (*suplentes*). For each candidate there must be a file (*processo individual*) of five documents – notarised copies of an identity card and voters card, birth certificate, a certificate of no criminal record, and a letter agreeing to stand. This had to be submitted by 29 July. If there are problems with documents, then the CNE notifies the party, which has five days to try to resolve the problem.

Both CNE and CC stress that a “candidature” in this sense is not just the name of the candidate, but also the *processo individual*. The CC notes that both in the election law and in the rules announced by the CNE, both the name and the file must be submitted together. The CC points out that MDM submitted 43 names without files (see table below) and that the CNE should not have even allowed them to be handed in.

Thus for Zambezia, with 45 seats, there must be 48 candidates. MDM submitted just 48 names, but five did not have files, so this was not an adequate list and should have been immediately rejected.

The CC is highly critical of the CNE for two errors which added significantly to the confusion. First, the CNE should not have accepted lists without actually checking for the *processo individual*. The lists without enough files were from the first unacceptable, and therefore should have been immediately rejected. The CC notes that MDM only submitted its lists at 16.40 on 29 July, with other parties, which made it difficult to actually check for files. But the CNE should have told MDM that its lists were subsequently not accepted. Then the

CNE made another mistake which only compounded the confusion – in several provinces, including Gaza and Cabo Delgado, the CNE actually notified MDM that some candidates with *processos individuais* were missing some documents – without apparently noticing that there were not enough valid candidates to fill this list. This also totally confused the MDM, which assumed its other names had been accepted.

But the CC adds that it made no practical difference. It confirms the CNE view that after 29 July, no further candidates could be submitted, even to replace those who are not accepted.

Finally, the CC points out that in the provinces where MDM did have lists accepted, it had not problems – nearly all the names were accompanied by files and the minor problems were corrected in time.

The CC has rejected all protests by all parties about excluded lists, but the MDM protest was clearly the most important.

All CC decisions are posted on its website: <http://www.cconstitucional.org.mz/>

The ruling on MDM is Acórdão nº 09/CC/2009, posted on

<http://www.cconstitucional.org.mz/UserFiles/File/Tsave/Acordaos/acordaos2009/ACORDAO%209%20CC%202009.pdf>

CC list of MDM-submitted provincial lists

Province	Provisional seats	Names needed	Names submitted	Without processo individual	Short-fall	action
Cabo Delgado	23	26	26	5	5	rejected
Nampula	46	49	63	20	6	rejected
Zambezia	45	48	48	5	5	rejected
Tete	19	22	19	5	8	rejected
Manica	16	19	19	3	3	rejected
Gaza	16	19	19	2	2	rejected
Maputo Prov	16	19	19	2	2	rejected
Africa	1	4	3		1	rejected
Europe	1	4	1		3	rejected
Niassa	14	17	22			1 irregularity corrected; list accepted
Sofala	19	22	23	1		3 irregularities corrected; list accepted
Inhambane	17	20	22			accepted

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