

MOZAMBIQUE



## **CASE STUDY: MOZAMBIQUE**

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## ACRONYMS AND ABBREVIATIONS

<b>AGP:</b>	General Peace Agreement
<b>AR:</b>	Assembly of the Republic
<b>AU:</b>	African Union
<b>AUEOM:</b>	African Union Election Observation Mission
<b>CEDAW:</b>	Convention on the Elimination of all Forms of Discrimination against Women
<b>CNE:</b>	The National Elections Commission
<b>EISA:</b>	The Electoral Institute for Sustainable Democracy in Africa
<b>FPTP:</b>	first-past-the-post
<b>MDM:</b>	Mozambique Democratic Movement
<b>PR:</b>	Proportional Representation
<b>SADC:</b>	Southern African Development Community
<b>STAE:</b>	Electoral Administration Technical Secretariat

## I. BACKGROUND AND POLITICAL CONTEXT OF THE COUNTRY

Since 1994, five parliamentary and five presidential elections have been held in Mozambique, as well as two elections for provincial assemblies and four municipal elections. The political context in which they were held shows that there have been problems associated with the inter-party undertakings between Frelimo and Renamo, the two main political forces, which signed the General Peace Agreement in 1992, which put an end to 16 years of war.

The distrust between Frelimo and Renamo has led to elections in Mozambique always being accompanied by conflict. One of the mostly contested areas, the magnitude of which differs from election to election, is the composition of the election management body, including its secretariat. Like the previous elections, the elections of 2009 and 2014, the two most recent electoral cycles, were marred by three types of recurrent problems, namely: i) representation of the two main political parties in the election commissions and in the technical secretariats at various levels, with the purpose of ensuring their management, control, and arbitration of electoral processes; ii) acceptance or recognition of the election results by the largest opposition party, alongside the allegation of electoral offences and or disputes, badly resolved, or not resolved at all, by the proper authority; iii) weaknesses in mastering the procedures and in interpreting the electoral legislation by the various stakeholders in elections.

It is worth indicating that election observation in Mozambique is governed by the international, regional and sub-regional principles and rules universally accepted and practised by states, namely:

- Regional norms:
  - The SADC Parliamentary Forum Norms and Standards for Elections in the SADC Region;
  - EISA/Forum of SADC Election Commissions' Principles for Election Management, Monitoring and Observation;
  - SADC Principles and Guidelines on Democratic Elections;
  - SADC Protocol on Gender and Development

- Continental norms:
  - The OAU/AU Declaration on the Principles Governing Democratic Elections;
  - The Guidelines of the African Union Election Observation Missions and Election Monitoring;
  - African Charter on Democracy, Elections and Governance
- International norms:
  - Universal Declaration of Human Rights of 1948;
  - International Pact on Civic and Political Rights of 1966;
  - Declaration of Principles for International Election Observation and Code of Conduct for International Election Observation of 2005.
  - The International Covenant on Civil and Political Rights (ICCPR) (1976)

In terms of key election trends, the results of the presidential and parliamentary elections from the last three election cycles, in 2004, 2009 and 2014, show the dominance of Frelimo over its arch-rival Renamo and other opposition parties. However, there have been instances where the election results gap between the two main parties and their candidates was greater, and at other times less. For instance, in the 2004 presidential elections the Frelimo candidate, Amando Guebuza, who was running for the first time, replacing President Joaquim Chissano who had served two terms, obtained 63.7% of valid votes, while the candidate of Renamo, Afonso Dhlakama, obtained 31.7%. That is, the winning candidate obtained more than twice the number of votes of the defeated candidate. In the parliamentary results, Frelimo won 62% of the votes, giving it 160 seats, while the Renamo-Electoral Union coalition won 29.7%, which gave it 90 out of the 250 seats in the Mozambican parliament, the Assembly of the Republic. The following presidential and parliamentary elections, in October 2009, showed a broad consolidation of Frelimo's hegemony in Mozambique's political landscape. In the election, Amando Guebuza, the Frelimo candidate, was re-elected with 75% of the valid votes, while the Renamo candidate, Afonso Dhlakama, obtained 16% of the votes. As for the parliamentary election, Frelimo secured 191 parliament seats, Renamo 51, and the Mozambique Democratic Movement (MDM), a party emerging from the dissolution of the coalition that some minority opposition parties had with Renamo, achieved 8 seats.

The Frelimo dominance has however been challenged in the recent 2014 elections. Just like in 2004 when it nominated a new presidential candidate, the party nominated Filipe Nyusi as a successor to the outgoing Amando Guebuza, who had completed his two terms in office. In the presidential election, Filipe Nyusi won with 57% and

the Renamo candidate, Afonso Dhlakama, obtained 36.6%. The third candidate, Daviz Simango of the MDM, took 6.3% of the votes. Frelimo secured a total of 144 seats, against 89 for Renamo and 17 for the MDM. The three parties had prior to the 2014 elections mounted a fierce election campaign. This led to a lot of interest in the elections and created uncertainty about the results.

Also part of the electoral trend is the rejuvenation of major political actors, with the presidential candidates of the Frelimo Party and of the MDM aged between 55 and 51 years respectively at the time of the 2014 elections. The composition of the Assembly of the Republic has undergone a relative renovation, since deputies have emerged who did not take part in the country's liberation struggle and in the armed conflict that involved Frelimo and Renamo. The electoral trends that do not favour bipolarisation have influenced the traditional political parties to prioritise democratic debate about matters of governance and development, in contrast to a discourse of accusations, which is the corollary of resentments dating from the period of the armed conflict.

## **II LEGAL AND INSTITUTIONAL FRAMEWORK AND KEY PROCESSES**

The constitution of Mozambique guarantees fundamental rights and freedoms among which “universality” and “equality” are very important. The constitution states: “all citizens are equal before the Law, enjoy the same rights and are subject to the same duties, irrespective of their colour, race, sex, ethnic origin, place of birth, religion, level of education, social position, marital status of their parents or their political options”. The constitution also contains normative provisions, specifically in the political and electoral domain, namely the right of all citizens to enjoy the freedom to form or to join political parties. Membership of political parties is voluntary and derives from the freedom of citizens to associate around the same political ideals.

Although the legal and constitutional framework guarantees political rights to citizens to undertake political activities without constraints, the context of the effective attainment of these rights still faces certain limitations, mainly at times of elections, because some political parties, mostly from the opposition, are prevented from holding meetings and demonstrations in some parts of the country. The constitution bans armed associations of a military or paramilitary type, but this command has not been obeyed, for reasons related to aspects of the General Peace Agreement, not properly negotiated between the two signatories, the government and Renamo.

The principle of the separation of powers is enshrined in the constitution under Article 134, stating that “the sovereign bodies rest on the principles of the separation

and interdependence of powers enshrined in the Constitution and owe obedience to the Constitution and to the laws". However, in practice, Mozambique has a strong concentration of power in the figure of the president. Although the constitution states that the term of office of the president is five years, and that a president can be elected only for two consecutive terms, in practice the powers bestowed on the president subject all the other arms of government, namely the executive, the legislature and judiciary, to the supremacy of the president.

For instance, in exercising his duties as Head of the Government, the President of the Republic may appoint, exonerate or dismiss the members of his government (ministers and the prime minister); in his capacity as Head of State, as stated in Article 188 of the constitution, the President of the Republic may dissolve the Assembly of the Republic (AR), if the Assembly rejects, after debate, the government's programme, and he should then call new elections; as head of state, the President of the Republic may also appoint the Presidents of the Supreme Court, the Administrative Tribunal and the Constitutional Council, and the Attorney-General. The presidential powers have been a subject of debate in Mozambique, with some arguing that the powers of the president are excessive, and have not only affected the principle of separation of powers but the effectiveness of statutory institutions such as the Attorney-General's Office, since their respective presidents and deputy presidents are appointed by the president. The elected house in Mozambique is called the Assembly of the Republic (AR), comprising deputies who represent the entire country and not the constituencies from which they are elected. The AR is the country's highest legislative body. It is made up of 250 deputies, elected by universal, direct, equal, personal and regular suffrage, and by secret ballot. For this, political parties compete, individually or in coalitions of parties, and the respective lists of candidates may include citizens who are not members of the parties.

Judicial power in Mozambique is exercised by the courts, which guarantee and strengthen the rule of law and ensure the rights and freedoms of citizens, as well as the legal interests of the various bodies and entities that have legal status. Within the judiciary there are various courts strata such as the Constitutional Council, which has the power to administer justice in matters of a legal-constitutional nature, for example, analysing, in the final instance, election appeals and claims, validating and proclaiming the election results, as well as judging challenges to the elections and to the decisions of the bodies of political parties. There is also the Public Prosecutor's Office, which in terms of the Constitution, "represent[s] the State and defend[s] such interests as the law may determine, and it shall control the legality and duration of detentions, shall conduct the institution of criminal proceedings, shall exercise penal authority, and shall ensure the legal defence of minors and absent or incapacitated persons".

The Constitution of Mozambique does not make reference to the dates or deadlines for holding elections, as these are determined by subsidiary law. The date for presidential and parliamentary elections is fixed at least 18 months in advance. The elections must be held by the first fortnight of October in each election year. These elections are held simultaneously on a single day throughout the national territory.

In the case of constitutional amendments, the constitution requires either a proposal by the state president or at least a third of the deputies of the AR. However, constitutional amendments are approved by a two-thirds majority of the deputies of the AR. The constitution itself sets material limits, according to which the alteration of certain questions of relevant national interest must be subject to a referendum in which citizen voters registered in the national territory and citizens abroad who are regularly registered may be called upon to decide. Among these matters are fundamental rights, freedoms and guarantees, universal, direct, secret, personal, equal and regular suffrage in choosing the elected office-holders in the sovereign bodies of the provinces and of local power, freedom of expression and of political organisation, including political parties and the right of democratic opposition, as well as the separation and interdependence of the sovereign bodies.

The Constitution enshrines the principle of gender equality, stating that men and women are equal before the law in all fields of political, economic, social and cultural life. Under the international instruments which Mozambique has ratified, such as the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), and its respective protocols, particularly the Optional Protocol, and the Protocol to the African Charter on Human and People's Rights, concerning the Rights of Women in Africa, the existing legal and institutional framework forbids discrimination against women in favour of men and vice-versa. Although the constitution and the subsidiary laws do not contain any explicit provisions about the percentage of women's representation in political parties and in elected bodies, political parties have made an effort to ensure gender balance in their lists of candidates for elections. In general, neither the constitution nor the ordinary laws promote positive discrimination in order to make gender equality possible in the context of elections inside the political parties, but it is fair to state that there is a growing trend in the political parties to ensure gender balance in the party lists.

However, it is important to note that gender equality is not a pre-condition for the registration and funding of political parties. Article 74 of the Constitution states that political parties "shall be the expression of political pluralism; they shall contribute to the formation and manifestation of the will of the people and shall be fundamental instruments of democratic participation by citizens in the governing of the country.

Article 75 proceeds to lay down conditions for the formation of political parties and for achieving their goals: they must a) be national in scope; b) defend the national interests; c) contribute to the formation of public opinion, particularly about major national issues; d) strengthen the patriotic spirit of citizens and the consolidation of the Mozambican nation. The creation and registration of political parties are regulated by Law 7/91, known as the Law on Parties, later altered by Law 14/1992. Political parties must submit their founding minutes to the Ministry of Justice registration.

### **III ELECTORAL SYSTEM**

The electoral system of Mozambique for the election of the Deputies of the Assembly of the Republic and for the elections of members of the provincial and municipal assemblies is proportional representation (PR) electoral system. For the election of the President of the Republic, the country uses a simple majority system, the first-past-the-post (FPTP), with a run-off variation. Article 133 of the Presidential and Parliamentary Election Law No.8/2013 states that "the candidate who wins more than half the valid votes, not including the blank ballots and invalid votes, is elected President of the Republic", and in the case of no candidate achieving an absolute 50% plus one majority, a second round is held between the two candidates with the largest number of votes. In this round of voting, the candidate who obtains the largest number of valid votes is elected.

Under the PR system, candidates do not stand for election as individuals, but as candidates for a party, on a pre-determined list. In this way, the PR does not encourage independent candidates to run in elections, because the voters also do not elect individuals but political parties. The PR system was adopted as part of the 1992 concessions that led to a Peace Agreement. It was assumed that the PR system would result in a broader representation of political parties in parliament. Yet, this did not happen in the 1994 elections, because of the 14 political parties which competed, only three won parliamentary seats, distributed as follows: i) Frelimo with 44.3%, which gave it 129 seats; Renamo with 37.7%, equivalent to 112 seats; and the Democratic Union with 5.1%, which translated into 9 seats. The remaining 11 political parties and coalitions did not manage to achieve 2% of the total votes nationally.

This intention of expanding political party representation in parliament from election to election has been contradicted, because increasingly one party has tended to take the majority of seats in parliament, as illustrated in the bullets below:

- 1994 – Frelimo 129 seats (44.3%); Renamo 112 seats (37.7%); Democratic Union 9 seats (5.1%).
- 1999 – Frelimo 133 seats; Renamo 117 seats.
- 2004 – Frelimo 160 seats; Renamo 90 seats.
- 2009 – Frelimo 191 seats; Renamo 51 seats; MDM 8 seats.
- 2014 – Frelimo 144 seats; Renamo 89 seats; MDM 17 seats.

So there is a decreasing trend in terms of representation of political parties in parliament, with the growing hegemony of one political party, which to some extent leads to questioning the thesis that the PR is the best system for Mozambique. It is clear from the election results of 1994 to 2009 that there has been a reduction of 62 combined opposition seats in the AR from 121 in 1994 to 59 in 2009. On the other hand, over the same period, the ruling party increased its number of seats by 62 (from 129 deputies in 1994 to 191 in 2009). This makes the PR system less representative in terms of political forces in the AR, because Frelimo dominates the political space and takes important decisions on its own. The exclusion of other parties in decision-making is a potential source of election-related conflict.

#### **IV PARTY AND CAMPAIGN FINANCE**

The law makes provision for the public and indirect private funding of parties as a way of giving democratic legitimacy to elections, since participation becomes more representative in quantity and quality. Private funding is indirect because the law requires that private funders should channel their donations through the state instead of directly to individual political parties. To date, Mozambique and Lesotho are the only countries in the SADC region that provide campaign funding to political parties. Providing funds means greater opportunities for the political parties to endow their human resources with training and capacity building in political management or marketing, or to hire specialists for this purpose. It also means they have resources to expand the geographical and temporal scope of their election campaign activities. The Presidential and Parliamentary Elections Law no. 8/2013 of 27 February 2014 regulates the party and campaign funding. Article 37 lists the various forms of financing the election campaign, namely:

- a) Contributions from the candidates themselves, from the political parties, the coalitions of political parties or groups of proponent citizen voters;

- b) Voluntary contributions from national and foreign citizens;
- c) The product of election campaign activities;
- d) Contributions from friendly national and foreign parties;
- e) Contributions from national and foreign non-governmental organisations.

Article 37 also states that “the State budget shall envisage a sum for financing the election campaign to be disbursed to the beneficiaries up to 21 days before the start of the election campaign”. The article establishes restrictions on the origin of funding for the election campaign. It states “the financing of the election campaigns of the candidates and parties, coalitions of parties or groups of proponent citizen voters, by foreign governments, governmental organisations or national and foreign public companies, is forbidden”. Should they be interested in financing the election campaign, they can only do so via contributions “to finance or strengthen the sum in the State budget envisaged for the election campaign”.

The distribution criterion of public funds to political parties is in proportion to the number of seats they have in the AR. It follows therefore that by virtue of its parliamentary dominance, Frelimo gets the lion’s share of the funds, followed by Renamo and then the MDM. The disbursement of the funds to the competing parties is at the discretion of the National Elections Commission (CNE). For instance, for the October 2014 elections, the CNE released the funds in three tranches. The first 50% of the money was given to the parties 21 days before the start of campaign period. The second and third tranches were released to the parties only after satisfactory expenditure accounting by the parties. The release of the funds in the second and third stages created problems for some parties that could not account for the funds already received in time. Many of these parties ended up not being able to utilise the funds in time for the elections, as they received them near the end of the official campaign period.

The allocation of funds to parties based on number of seats in the AR has been contested by the non-parliamentary parties, which claim that this does not allow them to compete in elections on an equal footing with the parliamentary political parties. Notwithstanding the legal provision with regard to the external sources of funding, political parties in Mozambique have more diversified sources of finance, some of them clear while others are less transparent. For example, in 2014, an opportunity was provided by law to parliamentary and extra-parliamentary political parties to import vehicles with tax exemptions. It was not established where both Frelimo and opposition parties got their money to purchase these vehicles. The parties have however also been deducting money from their functionaries for campaign financing. Frelimo Party charged a certain percentage of the wages of state functionaries was for the benefit of its campaigns. Likewise, the MDM, which governs some municipalities, including the

country's second-largest city Beira, has also been deducting money from its officials. This practice has also been extended to some public companies.

The law sets limits on campaign expenditure, with the parties obliged to communicate the maximum expenditure they will make in each election. The law requires that they provide accounts for the use of the public funds received for the election campaign. Article 41, paragraph 1 of the law stipulates that "the National Elections Commission shall analyse the regularity of the revenue and expenditure within sixty days, and shall publish its conclusions in one of the most read newspapers in the country and in the *Boletim da República*". Despite this legal obligation, the political parties have not justified or published their accounts. It can be concluded therefore that the financing of political parties still lacks a set of regulations that can detail and promote the application of the principles established in the law. This would be a mechanism to avoid conflicts of interest, corruption and the lack of transparency that have occurred in the support for political parties running in elections.

## **V ELECTION MANAGEMENT**

The constitution makes provisions for the establishment of an election management body, and this constitutional provision is operationalised through the National Electoral Commissions Act No. 9/2014, which alters Law no. 6/2013. The National Elections Commission (CNE) is an electoral management body that has powers to organise, conduct, execute, manage elections and supervise voter registration. The CNE has two main structures, namely the commission and the secretariat. The commission has provincial elections commissions, district and city elections commissions. The secretariat side of the commission is called the Electoral Administration Technical Secretariat (STAE). The STAE is a permanent body subordinate to the CNE at the national, provincial, district and city levels.

The composition of the CNE and STAE is hugely influenced by the General Peace Agreement (AGP) signed in 1992. This Agreement dictated the composition, appointment and powers of the electoral administration bodies. Thus, the structure and function of the EMB have been part of the post-conflict architecture in Mozambique to deal with the distrust between the two parties that were belligerents in the 15-year civil war. Not much has changed since 1992, because the CNE and STAE are still composed in a way that reflects the distrust between the signatories of the peace accord. It was only during the 2009 elections that the elections were supervised by a smaller and less politicised CNE comprising 13 members, five of whom were appointed by the political parties or coalitions of parties represented in the AR, in accordance with the principle of parliamentary representation and eight members proposed by legally constituted civil society organisations.

The current CNE is politicised, because the criteria for appointing members of the CNE and STAE is based on party-political party representation in the AR. Although some may argue that the inclusivity principle has worked for Mozambique since it was agreed to, this is at the detriment of technical competence and individual professional experience. Moreover, the two structures are excessively large. There are 17 CNE commissioners, of which five are from Frelimo, four from Renamo and one from MDM (in compliance with a 50:50 ratio where Frelimo has 50% and the opposition parties another 50%). The rest including the chairperson, who comes from civil society organisations, with Frelimo and Renamo representatives comprising the two deputy chairpersons. The STAE also has nine Frelimo, eight Renamo and one MDM representative. At provincial level, the STAE has the provincial director per province, two assistant provincial directors, three heads of department and six assistant heads of department nominated by the parliamentary parties on a 50:50 Frelimo to opposition ratio as explained above. The table below illustrates the embeddedness of political parties within the EMBs.

**Table 1: Number of political party representatives in EMBs at various levels**

	National			Province			District		
	Total	Parties		Total	Parties	Total	Parties		
CNE	17	Frelimo	5	15	Frelimo	3	15	Frelimo	3
		Renamo	4		Renamo	2		Renamo	2
		MDM	1		MDM	1		MDM	1
STAE	18	Frelimo	9	12	Frelimo	3	12	Frelimo	3
		Renamo	8		Renamo	2		Renamo	2
		MDM	1		MDM	1		MDM	1

The political parties' representatives are also included at the level of polling stations for the presidential, parliamentary and local elections. In terms of the Presidential and Parliamentary Elections Law no. 8/2013, of 27 February 2014, polling stations are manned by seven polling staff, namely the chairperson, a deputy chairperson, a secretary and four tellers. Three of these seven officials are appointed by the three political parties in parliament, while four are appointed by the CNE. These three political appointees are part of the official CNE staff for the purposes of elections and are therefore different from the polling agents who represent the parties in polling stations as monitors of the process.

Assessment of the performance of the CNE by the various electoral observation missions to the presidential, parliamentary and provincial assembly elections shows that despite a majority of its members coming from civil society, the CNE exhibited political tendencies in its conduct. For instance, it failed to divulge some information on request, did not follow the electoral calendar at times for dubious reasons and violated some aspects of the law such as the non-publication of the lists of candidates and the locations of the polling stations 30 days in advance as required by the law. According to the observers, there were doubts as to the CNE's transparency, integrity, impartiality and independence.

## **VI ELECTION DISPUTES AND RESOLUTION MECHANISMS**

In terms of Article 244 (2) (d) of the Constitution, the Constitutional Council has powers to evaluate electoral complaints and appeals in the last instance, and validate and proclaim electoral results, in the terms of the law. This role is further stated in the Presidential and Parliamentary Election Law no. 8/2013, which provides for the Constitutional Council to deal with all electoral claims, protests and appeals. It further makes the constitutional provision specific, establishing that:

1. Decisions taken by the National Elections Commission in electoral matters may be appealed against to the Constitutional Council.
2. The appeal shall be lodged within three days, counted from the notification of the decision of the National Elections Commission about the claim or protest presented.
3. Within five days the Constitutional Council shall judge the appeal definitively, and communicate the decision immediately to all interested parties, including the electoral bodies.

However, in terms of Article 193 of the Presidential and Parliamentary Election Law No. 8/2013, district-level Law Courts shall attend to, and judge complaints and appeals arising from the election, and should give these complaints and appeals priority over all other court business. The electoral judicial process is exempt from all costs and other charges. Article 94 further states that if during its hearings the District Law Court notes signs that a crime has been committed, the judge shall order that the relevant material be sent to the Public Prosecutor's Office, who shall deal with the matter in three days. The District Law Court is charged with judging the appeal within 48 hours, and communicating the decision to the National Elections Commission, to the appellant and to the interested parties. Appeals against decisions made by the District Law Court must be made to the Constitutional Council. As for presenting complaints about irregularities detected at the polling station, the law stipulates that they must be made at the place and time they occur.

The deadline for presenting complaints at the polling stations has always been disputed, because most of the voters do not know how to write, and the deadline is complicated because the complaint has to be made at the polling station at the moment when the irregularity was detected. The introduction of district electoral courts attempted to fill this gap by expanding the time for presenting complaints and the possibility of appealing against the decisions they take. However, in the 2014 elections there was little use of this mechanism, because of poor publicity of it among the electorate. Thus the number of cases presented was far below what had been expected.

The 2014 general elections were also marked by the creation and entry into operation of a new mechanism to solve electoral disputes (litigation) in the districts, the electoral tribunals. Election disputes came to be handled by these courts, while appeals are made to the Constitutional Council. The issue of appeals has been problematic, because the law requires that election appeals during the voting and at the partial, district or city, provincial, general and national count can be appealed, as long as they have been the subject of a protest or complaint at the time. As a result of the literacy problem cited above, making the appeal within 48 hours counted from the moment that the notice is posted announcing the election results has been practically impossible, because the parties still had to collect evidence to corroborate their claims.

Despite the foregoing, the process for presenting complaints was transparent and fair, and could always count on the openness of the polling station staff to the election observers to witness it. Throughout the short history of the work of the Constitutional Council in handling election disputes, by analysing the various rulings it has produced to date, it is possible to typify the most common type of litigation. The following stand out:

- i. Lateness of the appeals against decisions of the National Elections Commission, due to the failure to observe the legal deadlines – in most of the cases about candidatures and ineligibilities.
- ii. Absence of legal foundations, since the appeals do not specify the object of the complaint, on grounds of fact and of law, and with defective production of evidence.
- iii. Untimeliness, because the applicants did not respect the principle of prior challenge.

A finding that is important to underscore in the study that in most rulings of the Constitutional Council the CNE is criticised for its incapacity to bring together the notices and minutes of the intermediate count of the district results. It can be concluded that the establishment of the District Law Courts for receiving and handling election

complaints raises the need for regulations on complaints and appeals as well as on the mandate and procedures of the Electoral Courts and of the Constitutional Council.

## VII VOTER REGISTRATION

Voter registration in Mozambique is administered in terms of the Voter Registration Law No. 5/2013 of 22 February 2014. Unlike in other countries in the SADC region where voter registration is continuous, voter registration in Mozambique is periodic and therefore conducted only in the year of an election. It is electronic, with the numbering of the electoral registers coinciding with the numbering of the registration form and of the voter card. The Electoral Administration Technical Secretariat conducts voter registration under the supervision of the National Elections Commission. Article 7 of the Voter Registration Law states that in the event of an extraordinary election being held the voters' roll that would have been used in the recent past elections is used. According to the law, voter registration of each voter is a right and a duty. It is obligatory even though no sanctions are stipulated for anyone who does not register. However, there are social and professional benefits that those who are not registered cannot use, in addition to losing the right to vote. The law makes no provision for the registration of prisoners but dictates that the registration of "citizens who are soldiers or members of the forces for the maintenance of law and order, or who are students at an educational institution under a boarding regime shall take place at the registration body closest to their unit". The law prohibits the establishment of registration centres around or within:

- a) Police units;
- b) Military units;
- c) Homes of religious ministers;
- d) Buildings of any political party, coalition of parties, proponent groups of citizen voters and associations;
- e) Places where alcoholic drinks are served;
- f) Places of worship or intended for worship;
- g) Health units;
- h) The homes of traditional leaders.

The legal framework also contains provisions for the registration for potential voters in the diaspora, using the consular missions, diplomatic missions and other forms of representation of the Mozambican state institutions in certain countries with sizeable Mozambican communities, namely Portugal and Germany in Europe, and South Africa in Africa. As for the defence and security forces, these are registered in the closest places to their units or their homes. Prisoners and the mentally ill do not have the right to vote, and so are not registered as voters.

The STAE conducted a voter registration exercise including the transfer of voters from one geographical area to the other between February and April 2014 in preparation for the 15 October 2014. The registration was also extended to 9 May 2014 following a request by political parties due to the logistical and weather problems encountered at the beginning of the process. Political parties are entitled to observe the registration process by applying for accreditation with the CNE; hence they were able to pick up the above-mentioned challenges with the registration process and appealed to the CNE to extend the process. The extension was also important in that it enabled the Renamo leader Alfonso Dhlakama to register as a voter. He had hitherto been unable to register because he was engaged in a fight with government forces and had taken refuge at his forest military base in Satungira in Goronzova district in Sofala Province. The extension coincided with a ceasefire agreement between Renamo and government forces; hence Mr Dhlakama was able to register.

There are very clear requirements in terms of who can register as a voter in Mozambique and the process is also clearly articulated in the law. As a result, there have not been major concerns by stakeholders in this regard. However, voter registration operations have been subject to criticism and growing expressions of mistrust by the opposition parties. They question the reliability of the voters' roll and have accused the registration brigades of mainly undertaking voter registration in pro-Frelimo registration zones. Political parties and some civil society organisations have also challenged the CNE to produce an updated voters' roll void of names of the deceased people and multiple registrations.

The law provides that the voters' roll should be displayed at various voter registration centres within two and five days after the end of the voter registration period. The law states that "during the period when the electoral registers are displayed, any citizen voter, political party or coalition of political parties may, in the three following days, complain in writing to the respective registration body about any omissions or incorrect registrations in them ... The registration body shall immediately decide upon the complaints presented". The CNE is also empowered to display copies of the voters' roll in other places for more outreach. Voters and other stakeholders can lodge their objections and cause for correction of the voters' roll provided this is done before 30 days preceding each election.

In terms of complaints procedure, the law stipulates that if the complainant is not happy with the decisions regarding his/her registration at the voter registration centre level, he/she may approach the district or city STAE within three days of the decision having been made in the first appeal. If the district or city STAE has not addressed the complaints to the satisfaction of the appellant, then the latter can approach the pro-

vincial STAE and should the matter remain unresolved at this level, the CNE can be approached. Any unresolved complaints by the CNE are then supposed to be handed over to the Constitutional Council.

A look at observer reports shows that most of them recommend that the period during which the copies of the electoral registers are put on display should be extended and given better publicity, to allow more time to correct possible errors or omissions made during the voter registration, which take away the right to vote from voters.

## VIII BOUNDARY DELIMITATION

Mozambique is subdivided into 10 provinces the boundaries of which also form constituency boundaries. The city of Maputo constitutes an additional constituency within which the Maputo municipal elections are also conducted. The Ministry of State Administration and not the CNE has the task of demarcating the constituencies, which is submitted to the Assembly of the Republic for approval. In terms of Article 164 of the Presidential and Parliamentary Elections Law no. 8/2013, of 27 February 2014, the constituencies are headquartered in the respective provincial capitals. The law provides for two more constituencies, one for the countries of the African Region, and the other for the rest of the world. In the election of the President of the Republic, since this body consists of just one person, the whole territory is regarded as a single constituency.

Electoral stakeholders have seldom raised concerns regarding the demarcation of constituencies, mainly because they are contiguous with the existing administrative boundaries with which everyone is familiar. However, concerns have been raised with regard to the distribution of seats within the constituencies. The seats are distributed in line with the number of registered voters in a constituency, and the opposition parties have alleged that in some cases additional seats have been unduly created in Frelimo strongholds to give it an edge over the opposition. They claim that the number of seats in opposition territories have been reduced by recording a decline in registered voters. The table below illustrates the distribution of AR constituency seats per province.

**Table 2: 2014 Voter registration figures per province**

Province	Registered voters	No. of AR Seats	No. of Provincial seats
Niassa	615065	14	80
Cabo Delgado	964071	22	82
Nampula	2079129	47	93
Zambézia	1948859	45	92
Tete	971644	22	82
Manica	712938	16	80
Sofala	926746	21	82
Inhambane	598276	14	70
Gaza	591194	14	70
Maputo province	757594	17	80
Maputo City	708812	16	0
Africa	86985	1	0
Europe	1835	1	0
<b>Total</b>	<b>10963148</b>	<b>250</b>	<b>811</b>

## IX PROCUREMENT AND ELECTORAL ADMINISTRATION

The National Electoral Commission Law provides that the CNE is responsible for approving the models of the voter registration form, the electoral register, the ballot paper, the minutes of voting at the polling station, the results sheets and any other forms or materials to be used in the elections; approve the terms of curriculum assessment and hold public tenders for recruiting staff; and approve the terms of awarding contracts for election material, vehicles and other means of transport and equipment. The CNE is charged with ensuring appropriate conditions for accompanying, transporting, storing and distributing electoral material, security at the registration posts, and the rooms used for registration and voting, and the dispatch of the results sheets and original minutes of the vote count at all levels, observing for this purpose compliance with the rights granted to political parties, coalitions of parties and other stakeholders in elections.

With the above responsibilities, it is to be expected that the CNE will execute them in collaboration with all electoral stakeholders. However, there is no legal requirement for it to consult the public or the political parties, and, as a result, the planning, design

and procurement of election materials and technologies adopted have been subject to a closed and less transparent process. Political parties and civil society organisations have only been provided with information regarding these aspects as well as the distribution of the election materials for polling without necessarily being accorded space to suggest changes.

Generally, election periods constitute a form of seasonal employment for many citizens and the CNE has provided opportunity to all qualified nationals without any discrimination on grounds of gender, social position or age. The training of the various categories of voter registration and polling staff has also been guided by procurement procedures with regard to the service providers and acquisition of training materials. The procurement of election materials and recruitment of polling station staff has largely complied with procurement procedures and has been generally transparent. There have only been a few allegations of the ruling party elite's involvement in procurement through their association with some of the companies that have been awarded tenders, therefore creating a conflict of interest.

## **X VOTER AND CIVIC EDUCATION**

The Electoral Administration Technical Secretariat (STAE) is responsible for conducting civic and voter education. Other role players such as the media and civil society organisations are also involved in civic and voter education initiatives, albeit challenged by budgetary constraints. Civil society groups are notably the Electoral Observatory, the Youth Parliament and the Association of Women in the Media, dependent on funding from external funders and this is not always available or sufficient for them to mount a comprehensive civic and voter education. As a result, they have not been able to reach many parts of the country, particularly in the rural areas. The political parties should also provide the electorate with civic and voter education as well as voter information consistent with that supplied by the electoral management body about voting procedures. However, political parties have been too absorbed in campaigning and less focused on voter education, which they regard as the responsibility of the STAE. The STAE coordinates the efforts or initiatives of other interested stakeholders, by supplying materials produced for this purpose. The civic and voter education content by civil society organisations has been non-partisan and both the STAE and CSOs have conducted it in both Portuguese and vernacular languages.

## **XI CANDIDATE NOMINATIONS**

The Presidential and Parliamentary Elections Law no. 8/2013 of 27 February 2014 provides a framework for the nomination of candidates for the presidential and par-

liamentary elections. In terms of this law, presidential candidates shall be presented by registered political parties and they should be supported by 10,000 signatures of registered voters. Such candidates may also be proposed from among citizen voters so long as they have the support of 10,000 registered voters. They also need to be in possession of documents proving their citizenship bona fides and that they don't have criminal records and, lastly, that they have been resident in the country for up to a year prior to the elections. The required documentation is to be submitted 75 days before the elections day to the Constitutional Council. Submission of the presidential candidates' names is made 120 days prior to polling day.

The nomination of parliamentary candidates is made to the CNE by political parties or coalitions of political parties. Because the country operates a PR electoral system, parties or coalition of parties should submit lists of candidates' names up to 120 days prior to the date scheduled for the elections. In general, the law requires that the individual application for each of the candidates should contain: a) an authenticated photocopy of his/her identity card, or, in the absence of this document, his/her birth certificate; b) authenticated photocopy of his/her voter card or document that shows that the candidate is enrolled in the updated voter registration; c) certificate of the candidate's criminal record; d) declaration that the candidate accepts nomination and the election agent of the list; e) declaration of the candidate that he/she is eligible, and does not figure in any other list of candidates. There are no legal provisions for parties to ensure gender parity in their candidate lists and this has been left entirely to the discretion of the parties.

While the procedures for creating and registering political parties at the Ministry of Justice have never been contested before, the registration of political parties to participate in the elections and nomination of candidates has presented some challenges. For instance, in the 2009 elections there was controversy after 17 opposition political parties and three coalition parties' candidates were rejected by the CNE due to alleged non-compliance with the formal requirements for the presentation of candidates. The main problem was that parties were having difficulties in obtaining residence certificates and criminal record certificates. Only Frelimo and Renamo had their full lists of candidates approved, while other parties did not take part in the elections in most of the constituencies because of the rejection.

The rejection of these candidates was interpreted by opposition parties as a clear intention to unjustly prevent them from participating in the elections. They therefore questioned the CNE's legitimacy. The parties also considered the nomination requirements and procedures inhibiting because the civil registration services for dealing with criminal record certificates were inefficient, or because residence certificates were

issued by grassroots structures of the ruling party, which made it difficult to obtain this document in time. Payment of a fee of 100 meticaïs was also considered unreasonable. Following an outcry from the 2009 elections and recommendations by the pan-African observer groups on this matter, the requirement for a residence certificate was removed for the 2014 elections.

## **XII ELECTION CAMPAIGNS**

The Presidential and Parliamentary Elections Law no. 8/2013 of 27 February 2014 regulates the conduct of political party and coalition party candidates during election campaigns. The law indicates that the campaigns shall begin 45 days before the election date and end 48 hours before polling day. In the last two elections in 2009 and 2014 contesting political parties publicly signed a pledge to adhere to the electoral codes of conduct. The Constitutional Council, the Assembly of the Republic, the Ministry of the Interior and representatives of civil society organisations witnessed the signing of these pledges by parties.

The law prescribes that the candidates, political parties, coalitions of political parties and groups of proponent citizen voters have the right to equal treatment by public and private bodies in order to hold their election campaigns freely and in the best of conditions. Under the freedoms of assembly and of demonstration, parades and marches may be held on any day and at any time, respecting the limits imposed by the maintenance of public order. Propaganda involving sound is permitted between 07.00 and 21.00. The law bans political propaganda from the following places: military and para-military units; departments of state and of the municipalities; workplaces during the normal hours of work; educational institutions, during the period of classes; places of worship; and health units. Likewise, the use by political parties, coalitions of political parties and proponent groups of citizen voters of assets owned by the state, municipalities, autonomous institutes, state companies, and companies in which the capital is exclusively or mostly public is expressly forbidden.

The use of public places and buildings for electoral purposes is supposed to be equitably shared among the various candidatures and is free of charge, and the competitors in elections have the right to use the public radio and television service during the period of the election campaign, under the terms defined in regulations issued by the National Elections Commission. Despite these provisions for election campaign activities, some of the competing parties have complained of being prevented from holding election campaign meetings and demonstrations by certain local government authorities or because particular areas are considered no-go areas because they are support bases for certain parties. In the two most recent election cycles violent inci-

dents happened in the city of Beira, involving members of Frelimo and of the MDM, in which firearms were used, there was physical assault, vehicles were torched and posters destroyed. Also in Gaza province, members and supporters of the MDM and of Frelimo were beaten. A lot of tension was observed between Renamo and the MDM due to their past relationship, where they contested election jointly. The MDM is very much seen as a splinter party from Renamo and the two have exhibited intolerance by obstructing the campaign activities of each other.

In the last two electoral cycles there has been a reduction in the abuse of public resources in the election campaigns. This has previously been a common occurrence, where public servants used government vehicles for ruling party election campaign events. Related to the use of state resources, Mozambique has made significant improvements in the allocation of air time for political party propaganda on public media. The state broadcaster devised an equitable distribution of broadcasting time policy to contesting parties during elections. The use of new communication and information technologies in the 2009 elections contributed greatly to this reduction, because when the undue use of public resources was detected, pictures and messages circulated via mobile phone. Because of this, the electoral authorities, the Public Prosecutor's Office and the Constitutional Council were obliged to take action.

This notwithstanding, the election campaigns took place without many episodes of violence given that the elections took place soon after an open violent conflict between Renamo and government forces and the fact that Renamo went into the campaigns and elections without having disarmed.

### **XIII STAKEHOLDERS: GENDER AND MINORITY RIGHTS; MEDIA; CIVIL SOCIETY; RELIGIOUS AND TRADITIONAL LEADERS; SECURITY SECTOR**

#### ***Media***

The rights and freedoms of the mass media are enshrined in the constitution. All citizens have the right to freedom of expression and freedom of the press, as well as the right to information. Media coverage of the elections is governed by a code of conduct, which is updated at each election. The constitution also establishes the Higher Mass Media Council, which is a body charged with ensuring a proper conduct of all media houses. It also ensures the independence of the mass media in exercising the right to information, the freedom of the press, as well as the right to broadcasting time and the right of reply.

As mentioned in the campaign section above, Mozambique has provisions for the equitable distribution of airtime on state media. The CNE is charged with determining the modalities of airtime allocation to contesting political parties. This is a positive improvement because previously this was not the case. For the 2014 elections, the Mozambique Television (MTV) allocated maximum 15 minutes per week to the contesting parties. Similarly, Radio Mozambique dedicated five minutes for each party per day, in line with the CNE arrangements.

The coverage of elections outside the CNE facilitated state media coverage, and the media has tended to be polarised, with the public media seen as covering Frelimo more than the opposition parties. On the other hand, private media has also been accused of bias in favour of opposition parties. In an effort to ensure professionalism in the coverage of electoral events, there have been efforts to provide training to the media by donors like the Swedish Embassy, which provided funding towards training media professionals on election coverage by non-governmental organisations.

### **Observers**

Mozambique accredits domestic and international organisations to observe elections. In terms of Articles 245 and 263 of the Presidential and Parliamentary Elections Law no. 8/2013 of 27 February 2014, observers are allowed to witness the entire electoral process provided that they have applied for accreditation and received approval from the CNE. This means that observers are allowed access to polling stations, tabulation centres at various levels as well as the national election results centre. Once approved, the observer groups and individuals receive a set of documents on the obligations of the observer, including a code of conduct as well as the general information about the elections.

During the 2014 elections there were concerns by some observer groups that the STAE did not allow some of them access to tabulation centres, contrary to the law. Some STAE officials were found to be uncooperative and made it difficult for the some observers to follow the tabulation process closely.

### **Traditional and religious leaders**

Religious organisations participated in the electoral process. For instance, Electoral Observatory, which is an organisation comprising the main religious organisations of the country, ensured the involvement of many religious leaders in mobilising citizens during civic and voter education period with the view to increase civic participation. The involvement of these leaders was neutral. However, there were concerns about

the role of some traditional leaders, particularly during the 2009 elections, where they were accused of deliberately frustrating the would-be opposition candidates in obtaining the relevant documents for registration as candidates by the CNE.

### **Security forces**

The question of the neutrality of the security forces involved in the electoral process has been repeatedly challenged by the opposition parties. They were often criticised for lacking neutrality during the campaign period, voting and even during the tabulation of results. Two criticisms were largely reported, namely:

- failure of the police to observe their limit of 300 metres proximity from the polling stations;
- the antagonism of members of the riot police in dealing with disturbances at the polling stations. The criticism was due to the disproportionate use of force faced with mere complaints and irregularities that had supposedly occurred at the polling stations.

### **Gender**

There are few women in the electoral management bodies, from central to provincial and district levels. Because there is no legal requirement for the inclusion of women in party lists, parties fared differently in this regard. Some parties had a fair number of women in their lists while others didn't. It is important that mechanisms be urgently adopted to increase the presence of women in the electoral bodies, as well as including women in the political parties' lists of candidates.

## **XIV ELECTION DAY AND RESULTS MANAGEMENT PROCESS**

Polling stations across the country are supposed to open at 07h00 and close at 18h00. However, not all polling stations opened for various reasons, including delays in the delivery of materials either because they would have been delivered at the wrong polling stations or they were not dispatched at all from the warehouse of the election management body. While delays in many stations were about 30 to 45 minutes on average, there were a few reports of some polling stations opened as late as two hours after the legally provided time. Despite the delays and long queues, polling proceeded well across the country without incidents. All polling stations are located in neutral public places and this enables the electoral to exercise their constitutional right to choose their leaders without any obstructions. The polling staff displayed professionalism and impartiality, despite a component of them being political party appointees.

This was noted by almost all observers during the 2014 elections. In both elections, the CNE and STAE made efforts to assure the secrecy of the ballot and disabled, illiterate and elderly voters who required assistance were helped in line with the law.

It must be indicated that in both the 2009 and 2014 elections, there were no incidents that threatened voting on election day. This is also the case with closing and counting stages of the process. The atmosphere at the polling stations during the time nearer the closing of voting has been tense in some areas as a result of concentration of members and supporters of political parties in the vicinity of the polling stations, under the pretext of wanting to follow the count, that is, "to protect the vote", which is indicative of the suspicion they have towards the electoral bodies. However, the counting process for the presidential and parliamentary elections is usually conducted in line with the provisions of the law. Because of suspicions among political parties, the counting process in most polling stations has tended to be laborious yet transparent. And where there are suspected spoiled ballot papers, the polling officials and party agents reach a consensus in the presence of domestic and international observers on whether to accept or reject the ballot. The polling station results are displayed at the door/window as soon as all party agents have signed and affirmed the results. The problem with political parties is that not all of them deploy party agents (or sufficient number to alternate) in all polling stations and, although this cannot affect the voting and other activities from proceeding, it becomes a problem where the parties want to challenge the results.

The law requires that the sealed packets of polling station ballot papers and results should be transmitted to the district tabulation centres within 24 hours from the close of the polls. These are to be delivered by the chairpersons of the polling stations together with the minutes, the result sheets, the registers and all other election material to the District Electoral Commission. The District Electoral Commission has 48 hours to tabulate results and then deliver the election materials and the results to the Provincial Election Commission for tabulation. The transmission of results and tabulation at the district and provincial levels is an area where there are challenges in Mozambique. Political parties and some observers have suspicions that the process is not transparent because the STAE sometimes denies observers access to the tabulation centres for them to follow what is being tabulated. During the 2009 elections, the National Elections Commission wanted to restrict election observation by impeding the access of observers to the sites where the election results were centrally tabulated. This caused tensions between the electoral bodies and the observers and put into question the credibility of the election results.

Related to the transmission and tabulation is the announcement of the election result, which many stakeholders regard as too long and creating unnecessary anxiety among parties and voters. This is more so because in the absence of the official results, the media releases incomplete results from the polling stations and district and provisional results, further adding to the confusion. There is also a new phenomenon of parallel vote tabulation (PVT). This is a useful exercise by civil society and political parties themselves.

As a result of the suspicions, there is a growing tendency of non-acceptance of election results by the main opposition party, Renamo. In fact Renamo has never accepted results since 1994. In 2009, the Renamo leader, as a sign of contesting the election results, abandoned the capital city Maputo, and set up his residence in the city of Nampula, where he unleashed an environment favourable to a return to the old bases which sustained the 16-year war against the Frelimo government. In 2012 the 20-year period of peace achieved with the signing of the General Peace Agreement in 1992 was interrupted by confrontations between the government forces and Renamo's armed men. This was ended only with the signing of the agreement on a cessation of hostilities by the then President of the Republic, Armando Guebuza, and the leader of Renamo, Afonso Dhlakama, on 5 September 2014. In 2014, Renamo together with the MDM also did not accept the election results proclaimed and validated in the ruling of the Constitutional Council.

## **XV INSTRUMENTS FOR ASSESSING AFRICAN ELECTIONS**

The assessment of the elections by the AU and RECs observation groups was through preliminary statements released less than a week after polling day. These were before the official publication of the results by the National Elections Commission. The overall assessment was positive, with most of these groups stating that the elections took place within the parameters of the regional, continental and international norms and standards and in line with the Mozambican constitutional and legal framework. The assessments were that the elections were free, fair and peaceful, while there was an acknowledgment of some irregularities in the process but that these were not necessarily sufficient to influence the election results. Finally, there were recommendations for improving the following election processes, addressed to the electoral management and administration bodies, to the political parties, to national civil society, and to the government and legislative authorities. Some of the observations and recommendations are captured in Table 3 below.

**Table 3: Pan African Observer Missions' assessment of the 2014 elections**

## I. CONSTITUTIONAL AND LEGAL FRAMEWORK

<b>Observation Mission</b>	<b>Problem Identified</b>	<b>Recommendation</b>
SADC (SEOM)	- Constant alterations in the electoral law and its dissemination to all partners in the process and to the public at large.	- In future the political parties and other partners should be informed about all the new adjustments in the electoral law, as soon as they are promulgated.
EISA/TCC		- Adherence to the code of conduct of the political parties should be systematically monitored by the CNE.
Mozambican Bar Association and SADC Lawyers' Association		- The question of financing political parties is very important for honest and impartial elections. Hence it is urgent that legislation be adopted which regulates the financing of political parties, for questions of transparency in the process.

## 2. ELECTORAL ADMINISTRATION AND MANAGEMENT

Observation Mission	Problem Identified	Recommendation
SADC (SEOM)	<ul style="list-style-type: none"> <li>- Independence of the National Elections Commission.</li> <li>- Exclusion of some political parties from the electoral process.</li> <li>- Transparency of the National Elections Commission, which did not consult other partners when hiring the company that provided the election materials.</li> <li>- The acquisition of software for validating the count, including the involvement of partners, and its use in the process.</li> <li>- Adequate voter education as one of the pre-requisites for elections.</li> </ul>	<ul style="list-style-type: none"> <li>- Creation of a forum for communication between the National Elections Commission and the mass media.</li> <li>- The National Elections Commission should consider activities related to the elections as a continual process and not as an isolated activity. By way of example – the continual holding of civic and voter education and the electoral registers.</li> </ul>
EISA/TCC	<ul style="list-style-type: none"> <li>- Limited capacity of the political parties to mobilise effectively the necessary number of election staff and agents.</li> <li>- The efforts for inclusion were restricted to the three political parties represented in parliament.</li> <li>- Delays in concluding the programme to train polling station staff due to the late presentation of the complete lists of polling station staff members by some political parties.</li> </ul>	<ul style="list-style-type: none"> <li>- Adhesion to the code of conduct of the political parties should be systematically monitored by the CNE.</li> </ul>

<p>Mozambican Bar Association and SADC Lawyers' Association</p>		<ul style="list-style-type: none"> <li>- Deadlines should be fixed for the accreditation of observers and of the delegates of the candidatures.</li> <li>- The training and capacity building of polling station staff members should be improved.</li> <li>- The amalgamation or merger of polling stations without prior notice should be avoided.</li> <li>- Distribute the material efficiently and on time.</li> <li>- Increase the expertise of the polling station staff, recruit people with higher education qualifications, and requisition higher education students to work on the process.</li> </ul>
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### 3. VOTER REGISTRATION AND MANAGEMENT OF ELECTORAL REGISTERS

Observation Mission	Problem Identified	Recommendation
SADC ECF		- The CNE and STAE should guarantee the presence of adequate security forces during the transportation of material such as ballot papers.
SADC (SEOM)	- The publication and verification of the voters' roll is done in a period of just ten days after the end of voter registration.	
EISA/TCC	<ul style="list-style-type: none"> <li>- Difficulties related to lack of access to the voter registration centres due to bad roads, heavy rains and insufficient transport.</li> <li>- Problems of technical knowledge in the use of the voter registration machines by some members of the registration brigades.</li> </ul>	<ul style="list-style-type: none"> <li>- The CNE should make an effort to publish the final electoral registers before the start of the nomination of candidates.</li> <li>- The CNE should take measures to guarantee that the correct electoral registers are placed in the polling stations</li> </ul>
Mozambican Bar Association and SADC Lawyers' Association		- Guarantee that the lists are distributed in a balanced manner in terms of the number of voters, which would avoid that, at the moment of voting, two polling stations side by side have disproportionate numbers of voters.

4. ELECTION CAMPAIGN AND ELECTORAL PROPAGANDA

Observation Mission	Problem Identified	Recommendation
SADC (SEOM)	<ul style="list-style-type: none"> <li>- Media bias in favour of the ruling party.</li> <li>- Violent incidents in Gaza, Nampula and Zambézia.</li> <li>- Denunciations of detentions of political party agents.</li> <li>- Police bias in favour of the ruling party.</li> <li>- Abuse of state assets.</li> <li>- Intimidation.</li> <li>- Inadequate voter education, particularly in the rural areas.</li> </ul>	<ul style="list-style-type: none"> <li>- The arrangements of the polling stations must be improved to facilitate the easy flow of voters.</li> </ul>
EISA/TCC	<ul style="list-style-type: none"> <li>- Violence and intimidation involving party supporters in Gaza, Zambézia, Sofala, Manica and Tete provinces.</li> <li>- Distrust of police bias by the two main opposition parties, Renamo and the MDM.</li> </ul>	<ul style="list-style-type: none"> <li>- All the interested parties in the elections should defend political tolerance and accommodate the others, particularly during the campaigns.</li> <li>- The police should remain neutral in upholding law and order during the elections.</li> <li>- The public media should provide a balanced and fair coverage of the election campaign.</li> </ul>

<p>Mozambican Bar Association and SADC Lawyers' Association</p>	<ul style="list-style-type: none"> <li>- Occurrence of violence and intimidation involving supporters of the parties competing in the elections, particularly Frelimo, Renamo and the MDM, in Gaza and Nampula provinces.</li> <li>- Destruction of posters.</li> <li>- State-owned media, both printed and audio-visual prioritised the campaign of the ruling party.</li> <li>- The model of financing the election campaign of the political parties does not guarantee equality of opportunity in the electoral race and affects the transparency of the elections.</li> <li>- The late delivery of funds increased the gap in capacities between the candidates and the major political parties.</li> <li>- Lack of probity and corruption through promoting fund-raising initiatives involving business people who provide election-related services to the state.</li> </ul>	<ul style="list-style-type: none"> <li>- Improvement in the levels of professionalism, objectivity, impartiality and proportionality in electoral coverage.</li> <li>- The police should be very well prepared and trained to deal with specific questions resulting from an election.</li> <li>- Need to respect and comply with the requirements of the electoral law.</li> <li>- Need for the political parties to refrain from intervening actively in the voting and to use the legal mechanisms for solving election disputes.</li> </ul>
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5. OBSERVATION OF POLLING DAY – OPENING OF THE POLLING STATIONS

Observation Mission	Problem Identified	Recommendation
EISA/TCC	<ul style="list-style-type: none"> <li>- Delays in the opening of some polling stations due to the switch of electoral registers.</li> <li>- Some cases of delays in the delivery of materials, which led to the late opening of some polling stations.</li> </ul>	<ul style="list-style-type: none"> <li>- The CNE should guarantee that measures will be taken to place the correct electoral registers in the polling stations.</li> </ul>
Mozambican Bar Association and SADC Lawyers' Association	<ul style="list-style-type: none"> <li>- Late opening of some polling stations for organisational reasons such as the late arrival of the polling station staff.</li> <li>- Lack of certification of some delegates of the candidatures.</li> <li>- Lack of accreditation of observers of the Electoral Observatory in Nampula, who were prevented from carrying out their mission.</li> </ul>	

## 6. OBSERVATION OF THE VOTING

<b>Observation Mission</b>	<b>Problem Identified</b>	<b>Recommendation</b>
SADC ECF	<ul style="list-style-type: none"> <li>- Some polling stations were too small to accommodate the polling stations staff and their material.</li> <li>- Voters whose names were not on the electoral registers were not allowed to vote.</li> <li>- Some delegates of candidatures in some polling stations played a participatory rather than a supervisory role.</li> <li>- There was no adequate signposting directing the public to the polling station.</li> <li>- Some political parties did not place their delegates in some polling stations.</li> <li>- Propaganda material of the political parties within the forbidden perimeter (300 metres), in violation of the electoral law.</li> </ul>	<ul style="list-style-type: none"> <li>- The ballot box should be placed in such a way that it is a few metres from the table.</li> <li>- A marker should be used to apply the indelible ink.</li> </ul>
SADC (SEOM)		<ul style="list-style-type: none"> <li>- The arrangement of the polling stations must be improved to facilitate the easy flow of voters.</li> </ul>
EISA/TCC	<ul style="list-style-type: none"> <li>- Not all the political parties were represented at the polling stations.</li> </ul>	

<p>Mozambican Bar Association and SADC Lawyers' Association</p>	<ul style="list-style-type: none"> <li>- Long queues and absence of names from the lists and electoral registers caused agitation among the voters.</li> <li>- Concentration of crowds around the polling stations alleging they intended to watch or protect their vote, given the low level of trust in the electoral administration bodies.</li> <li>- Repeated power cuts, particularly near the start of the count.</li> <li>- Excessive zeal by the police, who were not prudent in managing the crowds of voters around the polling stations, resorting to disproportionate measures which resulted in damage, injuries and deaths.</li> </ul>	
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7. OBSERVATION OF THE CLOSE OF THE POLLING STATIONS AND OF THE COUNT

Observation Mission	Problem Identified	Recommendation
EISA/TCC	<ul style="list-style-type: none"> <li>- Delays in counting the votes due to problems of reconciling the ballot papers in some polling stations.</li> </ul>	<ul style="list-style-type: none"> <li>- The CNE should consider simplifying the procedures for processing the results at the polling stations.</li> <li>- The CNE should consider publishing the final results of the elections by polling station in order to increase transparency.</li> </ul>
Mozambican Bar Association and SADC Lawyers' Association	<ul style="list-style-type: none"> <li>- Disturbances which led the police to intervene, using force and spraying tear gas in the polling stations, causing panic and fear among the polling station staff and observers.</li> <li>- Absence of delegates from the opposition political parties in some of the polling stations observed.</li> </ul>	

### *Position*

Most of the reports of the African election observation missions did not report specific situations, and restricted themselves to making mere statements about the course of the elections, especially with regard to polling day. One notes that they seek, in exaggerated fashion, to avoid being accused of interference in the internal affairs of the country. This might also be so that there may be no concern about them making a technical observation on the electoral process.

- **Post-election reforms**

In the short history of elections in Mozambique, electoral reforms have been cyclical – that is, each parliamentary and presidential election has been followed by a revision of the electoral legislation. Despite the principle that when parliament votes for an electoral law it has in mind that this is for almost all future elections, because it considers that an approved law is almost perfect, reality has shown the opposite.

The phenomenon of regular revision has often been shrouded in controversy, since it expresses the idea that the electoral laws, which in reality regulate voting procedures, are never neutral and refer in the first place to those elected, who very naturally are seeking to keep their places. On the other hand, the same electoral laws endanger the political influence of various parties and for some their very existence.

Most of the reforms introduced in the last two revisions resulted from recommendations in the reports of national and international election observation missions. Beginning with the instrument that regulates election observation, until the 2009 elections this was a regulation produced by the National Elections Commission. However, with the acceptance of the recommendations of election observers in 2013, the dignity of law was given to the regulations on election observation. As a result, national election observers came to have the right to vote in the polling station where they were working, even if their names were not in that electoral register. A further recommendation was the removal of an article regarded as the “article of fraud” because it accepted that a number of voters could be accepted lower than the number of votes found in the ballot box as long as the number of votes cast was not greater than the number of voters in the electoral register.

The national and international election observation missions enjoy good relations with the national bodies – the electoral bodies, the Constitutional Council, the political parties and the Assembly of the Republic. The evidence for this is the following:

- The references to the findings and recommendations in the reports of the election observers in the rulings of the Constitutional Council which proclaimed and validated the election results;
- The openness of the Assembly of the Republic to receiving contributions from the election observers in the processes of revising the electoral legislation;
- The resort of the political parties to the findings and recommendations of the election observers to second their positions, whether to approve, or to reject the elections.
- The creation of long-term observation missions should be prioritised, with a small number of people, who can be in the country three or more months prior to polling day and three or more months after the voting. This would allow greater interaction with the national institutions and other stakeholders, as well as greater knowledge about the political, social and cultural reality of the country.

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