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United Nations Office on Drugs and Crime

Country Review Report of Mozambique

Review of Mozambique on the implementation of articles 5 - 14 of Chapter II. “Preventive measures” and articles 51 - 59 of Chapter V. “Asset recovery” of the United Nations Convention against Corruption for the second review cycle (2016 - 2020) by Mauritius and Qatar

I. Introduction

1. The Conference of the States Parties to the United Nations Convention against Corruption was established pursuant to article 63 of the Convention to, inter alia, promote and review the implementation of the Convention.
2. In accordance with article 63, paragraph 7, of the Convention, the Conference established at its third session, held in Doha from 9 to 13 November 2009, the Mechanism for the Review of Implementation of the Convention. The Mechanism was established also pursuant to article 4, paragraph 1, of the Convention, which states that States parties shall carry out their obligations under the Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and of non-intervention in the domestic affairs of other States.
3. The Review Mechanism is an intergovernmental process whose overall goal is to assist States parties in implementing the Convention.
4. The review process is based on the terms of reference of the Review Mechanism.

II. Process

5. The following review of the implementation by Mozambique of the Convention is based on the completed response to the comprehensive self-assessment checklist received from Mozambique, other supplementary information provided in accordance with paragraph 27 of the terms of reference of the Review Mechanism and the outcome of the constructive dialogue between the governmental experts from Mauritius, Qatar and Mozambique, by means of telephone conferences and e-mail exchanges and involving, inter alia, the following experts:

Mozambique:

- Mr. Manuel de Jesus Chitute Didier Malunga, General Inspector, Ministry of Justice
- Mr. Eduardo Leovigildo Sumana, Expert, Republic Prosecutor

Mauritius:

- Mr. Yajkaran Seewooruttun, Assistant Director, ICAC

Qatar:

- Ms. Amal Al-Kuwari, Director, Administrative Control Department, Administrative Control and Transparency Authority (ACTA)
- Mr. Hussein Hassan, Legal Adviser, Office of President, ACTA
- Ms. Sara Al-Emadi, International Affairs Researcher in International Affairs, Department of International Organizations, Ministry of Foreign Affairs
- Mr. Ali Hassan Al-Kubaisi, Director, Economic Crimes Division, Ministry of Interior
- Mr. Amr Abdelmoaty, Advisor, Ministry of Justice
- Mr. Mostafa Dowidar, Consultant, ACTA

- Mr. Mohamad Rashid Al-Binali, Public Prosecution
- Dr. Khalid Al-Hiti, ACTA
- Ms. Noora Al-Bahar, Financial Information Unit
- Mr. Khalid Al-Khater, State Audit Bureau
- Judge Jassim Al-Mohannadi, Supreme Judicial Council
- Mr. Jassem Al-Derhem, ACTA

Secretariat:

- Ms. Tatiana Balisova, Associate Crime Prevention and Criminal Justice Officer, UNODC
- Ms. Louise Portas, Associate Crime Prevention and Criminal Justice Officer, UNODC

6. A country visit, agreed to by Mozambique, was conducted from 15 to 18 May 2017.

III. Executive summary

Mozambique

1. Introduction: overview of the legal and institutional framework of Mozambique in the context of implementation of the United Nations Convention against Corruption

Mozambique signed the Convention against Corruption on 25 May 2004 and ratified it on 9 April 2008.

The Convention is an integral part of national law in Mozambique and has the status of ordinary law since its ratification by the parliament (art. 18, Constitution). The legal system is based on Portuguese civil law and customary law.

Mozambique was reviewed during the second year of the first cycle of the Implementation Review Mechanism [[CAC/COSP/IRG/I/2/1/Add.34](#)].

The most important institutions in the fight against corruption are the Central Office for the Fight against Corruption (Portuguese abbreviation: GCCC) within the Office of the Attorney General, the Central Ethics Commission, the Financial Intelligence Unit of Mozambique (GIFiM), the Ministry of State Administration and Public Service and the Bank of Mozambique.

Mozambique has enacted numerous laws to prevent and fight corruption, including the Law on the Central Office for the Fight against Corruption, the Law on Public Probity, the Law on Preventing and Combating Money-Laundering and Terrorist Financing and the Law establishing the Financial Intelligence Unit.

2. Chapter II: preventive measures

2.1. Observations on the implementation of the articles under review

Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)

In 2012, Mozambique adopted the Public Administration Development and Reform Strategy, which is aimed at enhancing professionalism, integrity and accountability in public administration. The Strategy is operationalized through five-year action plans reflected in concrete sectoral and provincial plans. To date, it has resulted in the adoption of several concrete anti-corruption measures, including new laws and the creation of the Central Ethics Commission and sectoral public ethics commissions. However, the Strategy only focuses on the public sector, and private sector corruption is left uncovered. Ministry of State Administration and Public Service and the Inter-Ministerial Commission for Public Service Reform are responsible for overseeing the implementation of the Strategy and preparing yearly progress reports.

The Central Office for the Fight against Corruption is the main preventive anti-corruption body. It carries out various prevention activities, including school initiatives in partnership with the Ministry of Education, awareness-raising materials and training. The Central Office has entered into agreements with several public and private institutions. Although the Central Office coordinates national corruption prevention work (art. 80, Organic Law on the Office of the Attorney General), its practical role in the implementation of the Strategy is unclear.

The Central Office is a specialized organ of the Office of the Attorney General (arts. 78 and 79, Organic Law), enjoying functional autonomy and its own budget. While the operational autonomy of the Office of the Attorney General is established (art. 234, Constitution; arts. 2 and 3, Organic Law), no legal basis exists ensuring specifically the independence of Central Office. The Deputy Attorney General acts as the director of the Central Office. The Attorney General appoints and removes the director (art. 81, Organic Law). Central Office staff (such as investigators, accountants, auditors, prosecutors) are seconded from various public bodies. The Office of the Attorney General oversees the secondment process but the procedure appears to vary and is unclear.

Public bodies are subject to periodic inspections by the Ministry of Finance and the Administrative Court. Any corruption-related findings are sent to the Central Office for follow-up.

The National Directorate for Legal and Constitutional Affairs of the Ministry of Justice is responsible for overseeing the evaluation and reform of legal instruments.

Two national surveys were carried out (2005, 2010) to evaluate citizens' satisfaction with public services. In addition, two studies on the level of corruption were developed by the Interministerial Commission for the Reform of the Public Sector (2004, 2010–2011) and two national conferences on corruption were organized (2013, 2015), bringing together government representatives, civil society and academia.

Mozambique participates in various international anti-corruption initiatives and forums, including the Southern African Development Community (SADC) Anti-Corruption Committee, the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) and the Commonwealth Africa Anti-Corruption Centre. The Central Office has entered into agreements with counterparts from several Portuguese-speaking and neighbouring countries.

Mozambique was reminded of its obligation to inform the Secretary-General of the United Nations of the name and address of the prevention authority under article 6 (3).

Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)

The General Statute of Officials and State Agents and its corresponding decree regulate the recruitment, retention, promotion and retirement of public officials. Ministerial decree 61/2000 regulates in detail the recruitment process, including the publication of vacancy notices, the composition of juries and selection procedures. Public bodies are responsible for their own recruitment process through established human resources departments. Recruitment-related complaints may be lodged with the jury, the hiring entity or the Administrative Court. Decree 54/2009 on the Careers and Compensation System includes the rules for promotion and remuneration. Remuneration considers public employees' career, category or function and consists of salaries and allowances (art. 48, General Statute).

There is an established practice of rotation for public officials occupying posts prone to corruption, as identified in the second national corruption survey (e.g. tax authorities, traffic police, customs officers).

Training of public officials on anti-corruption is provided primarily by the Ministry of State Administration and Public Service, but also by the Central Office and by several sectoral training institutions.

Criteria concerning candidature for and election to public office are set out in the Law on the Election of the President and Members of Parliament, the Law on the Election of the President of Municipal Councils, the Law on the Election of Members of Provincial Assemblies, the Law on the Ombudsman and the General Statute. Elected public officials are subject to mandatory asset declarations (art. 58, Law on Public Probity).

Although some relevant provisions exist in the Law on the Election of the President and Members of Parliament, Mozambique has identified the need to adopt a new law to comprehensively address election financing matters and introduce transparency.

The Law on Public Probity effectively serves as a code of conduct and establishes duties and ethical standards for public officials and regulates, among others, asset declarations, conflict of interest, gifts, secondary activities and employment. However, there is no information whether the relevant initiatives of regional, interregional or multilateral organizations were considered in developing the Law on Public Probity.

Yearly asset declarations are compulsory for public officials listed in article 58 and concern assets within or outside of Mozambique and of family members (arts. 20, 57–59 and 62). The Office of the Attorney General, through its reception and verification commissions, has depository and supervisory functions (arts. 61–63). The prosecutors, however, file their declarations with the Administrative Court (art. 61, para. 2). Anyone with justified interest can access the declarations but further dissemination or publication is prohibited (arts. 66–69).

Public officials cannot engage in outside activities that could lead to conflict of interest (art. 25, Law on Public Probity, arts. 7 and 8, General Statute). A cooling-off period of two years can be imposed when leaving public office (arts. 45 and 46, Law on Public Probity).

Gifts of a certain value (art. 41, para. 2, Law on Public Probity) are acceptable; however, zero tolerance applies if the gifts come from persons with interest in public officials' decisions and are not courtesy or special occasions gifts (arts. 26 and 40–42). If in doubt as to the permissibility, public officials must consult with their public ethics commission or, in its absence, superiors (art. 41).

Public officials have an obligation to self-identify potential conflicts of interest (as defined in arts. 19, 25, 35 and 36) and inform their respective public ethics commission or superiors (arts. 36 and 48).

Violations constitute disciplinary offences punishable by a fine or dismissal (arts. 70–88, Law on Public Probity, arts. 78–114, General Statute). Public bodies have their own disciplinary mechanisms and impose sanctions. Furthermore, public ethics commissions are responsible for identifying cases of conflict of interest and may recommend relevant bodies to apply disciplinary measures. The work of public ethics commissions is overseen by the Central Ethics Commission who transmits cases of breach to the Central Office for further consideration (art. 55, Law on Public Probity).

Public officials have a duty to report illegal acts, including corruption, to their superiors (art. 39, General Statute). Non-compliance constitutes a disciplinary offence (art. 86, General Statute). In addition, anyone can report corruption to the Central Office, including anonymously (arts. 12 and 13, Law on the Central Office). Protection for reporting persons is regulated by law (art. 13, Law on the Central Office and Law 15/2012).

The independence of the judiciary is guaranteed (art. 217, Constitution). The Judges Statute lists judges' duties and contains, among others, provisions on the appointment and disciplinary proceedings (art. 4). The High Council of the Judiciary is the main self-management and disciplinary body (arts. 220–222 Constitution). The Judicial Inspection body conducts regular inspections in courts and deals with complaints as to judges' performance.

Autonomy of the prosecution service is established (arts. 2 and 3, Organic Law). The Office of the Attorney General Statute lists rights, duties and ethical standards for prosecutors. A dedicated code of ethics for prosecutors is being drafted. The High Council of Public Prosecutors is the main managerial and disciplinary body.

Judges and prosecutors are subject to compulsory asset declarations. Training to judges and prosecutors on integrity is provided on an ad hoc basis.

Public procurement and management of public finances (art. 9)

Decree 5/2016 establishes the legal regime applicable to all public procurement. Mozambique applies a decentralized system where each contracting authority designates its own responsible acquisition management unit. The functional supervision unit of acquisitions of the Ministry of Finance is responsible for providing inspection, technical support and training to acquisition management units and preparing procurement guidelines and manuals. The decree regulates the different procurement methods (arts. 6–8), the invitation to tenders (arts. 32 and 33), requirements for participants (arts. 21–26) and the submission and evaluation of proposals (arts. 51–60). While the general method is public tender, special methods may be applied for procurement relating to international agreements and certain categories of work and services, including of lower value (arts. 6–8). Complaints can be addressed to the contracting authority's acquisition management unit, and further appeals can be lodged with the functional supervision unit of acquisitions or the administrative courts (arts. 275–276). The unit provides training to procurement officers (art. 19).

The electronic system of financial administration of the State (e-SISTAFE) regulates all processes relating to the management of public funds. The Law on the System of Financial Administration of the State regulates the system of accounting and auditing standards (arts. 36–63) and requires public bodies to keep records and report on all revenues and expenditures (arts. 14 and 15). The Law establishes the internal control subsystem to supervise the use of public resources and monitor the implementation of the rules (arts. 62–64). The Administrative Court is responsible for supervising public revenues and expenditures (art. 4, decree 24/2003). All public financial records are stored at the Ministry of Finance. Public bodies may be subject to independent audits ordered by the Ministry of Finance. Non-compliance with the Law is subject to financial, disciplinary, criminal and civil liability (art. 66; arts. 517 and 518, Penal Code). At the end of each fiscal year, the government prepares balance sheets, budget control charts and income statements.

The procedures and competencies for the elaboration and adoption of the national budget provided (arts. 130 and 131, Constitution; arts. 12-26, Law on the System of Financial Administration of the State).

Public reporting; participation of society (arts. 10 and 13)

Access to information is governed by the Law on the Right to Information. Requests can be submitted by anyone (arts. 3–6) and in any form (arts. 6–9) and must follow the requirements listed in the Law (art. 8). Denial of access can be challenged through an administrative or judicial appeal (arts. 16–18).

So-called single service counters exist throughout the country to provide one-stop access to various licences and certificates. Public bodies maintain their own websites and prepare what are known as service letters to succinctly present to citizens their work and services. The Law has also established a body responsible

for the management of national archives. The Office of the Attorney General presents its annual reports to the parliament, with one chapter dedicated to anti-corruption activities of the Central Office for the Fight against Corruption.

There is a practice of conducting consultations with civil society and the private sector during the drafting process of laws and regulations (in line with art. 124, Rules of Procedure of the parliament and arts. 113–116, Law on Public Administration).

The Central Office conducts a range of public information activities, including television and radio advertisements, campaigns, lectures and education programmes. An anonymous reporting hotline is in place.

Private sector (art. 12)

Corruption in the private sector is criminalized (arts. 502 and 503, Penal Code). In 2006 and 2009, the country adopted a General Accounting Plan and an Accounting System establishing standards for companies. The following laws are relevant in the area of company registration, bookkeeping and accounting and set out sanctions for non-compliance: Labour Law; Commercial Code (in particular arts. 42–46, which oblige businesses to keep records and inventory); Business Registration Code (in particular arts. 1–3 on the public commercial register); and Law on the Tax System (in particular arts. 23–30, which provide for sanctions for false or incomplete accounting and bookkeeping and non-submission of requested declarations to tax offices).

No specific mechanism is in place for reporting corruption in the private sector; however, corruption allegations can be reported directly to the Central Office for the Fight against Corruption and some companies have established toll-free “green lines” to receive complaints and channel them to the Central Office or other bodies.

A code of conduct exists for the Confederation of Economic Associations of Mozambique. In addition, some companies have their own codes of conduct and some larger companies have also established dedicated compliance departments.

The Central Office cooperates with the Confederation on training activities for the private sector and together with the Institute of Directors prepared the 2016 business integrity pact against corruption to give guidance to private companies. As of December 2017, the pact had been signed by 50 companies.

The Tax Authority is responsible for licensing and professional supervision of companies and private entities. The Commercial Code obliges companies to undergo regular audits by external auditors. No information has been provided on the subject of subsidies to and licensing of private entities and internal auditing controls. No information has been provided on the tax deductibility of bribes.

Measures to prevent money-laundering (art. 14)

As a member of ESAAMLG, Mozambique must implement and apply all Financial Action Task Force recommendations. Mozambique was subject to ESAAMLG mutual evaluation in 2011. The second evaluation is planned for 2019.

The Law on Money-Laundering and Terrorist Financing, and decree 66/2014, known as the anti-money-laundering regulation, contain the regulatory and supervisory regimes for banks and designated non-financial businesses and professions as exhaustively listed under article 3 of the Law. The Bank of Mozambique is the supervisory body for financial institutions, other supervisory bodies supervise specific sectors, and GIFiM is the supervisory body to all other entities (art. 27 of the Law). Bank of Mozambique has issued a Notice to help entities apply measures to prevent money-laundering.

The listed entities are required to identify their customers, including the occasional ones (art. 10 of the Law). Identification is mandatory if the transaction amount is above 450,000 meticaís (approximately \$736). Identification of beneficial owners is also required. While it does not appear clearly in the Law, decree 66/2014 provides for a risk-based approach by requiring creation of customer risk profiles (art. 15). Mozambique has established a financial intelligence unit, GIFiM, with powers to exchange information at the national and international level (art. 2, para. 2, Law on GIFiM). GIFiM has signed a number of memorandums of understanding, almost exclusively with regional financial intelligence units. At the time of the country visit, GIFiM was about to become a member of the Egmont Group of Financial Intelligence Units. Moreover, Mozambique has created a task force composed of the Office of the Attorney General, the Central Office for the Fight against Corruption and technicians from various ministries. The task force is chaired by GIFiM.

Mozambique regulates cross-border transfers of cash and negotiable instruments. Anyone entering or leaving its territory must declare any amount above \$5,000 (art. 24, Law on Money-Laundering and Terrorist Financing). The declaration is sent to GIFiM (art. 36, anti-money-laundering regulation). However, while the anti-money-laundering regulation includes national and foreign currency, the Law on Money-Laundering and Terrorist Financing mandates declaration of foreign currency only. Financial institutions must identify and verify the identity of originators and beneficiaries of wire transfers (art. 15 of the Law; art. 24 of the regulation). However, the Law does not apply to money remitters outside financial institutions.

2.2. Successes and good practices

- A broad range of activities in schools aimed at preventing corruption, including the establishment of anti-corruption centres, the organization of contests, the production of a children's book, efforts to include anti-corruption content into curricula, and the training of teachers (art. 5 (2) and art. 13 (1) of the Convention);
- The existence of single service counters and the development of service letters to facilitate access of citizens to public work and services (art. 10 (a) and (b));
- Mozambique has created a task force composed by the Office of the Attorney General, the Central Office for the Fight against Corruption and technicians from various ministries. The task force is chaired by GIFiM (art. 14 (1) (b)).

2.3. Challenges in implementation

It is recommended that Mozambique:

- Consider including private sector corruption in the Public Administration Development and Reform Strategy, the national anti-corruption strategy (art. 5 (1));
- Strengthen the coordination between the Central Office for the Fight against Corruption and the Ministry of State Administration and Public Service to ensure the effective implementation of the Strategy and enhance capacities and research activities of the Central Office in the areas not covered by the Strategy (art. 6 (1));
- Establish a legal basis for the independence of the Central Office, adopt clear rules on the appointment and removal of its director to introduce safeguards against arbitrary dismissal, introduce rules on the recruitment of Central Office staff, and provide sufficient resources and specialized training to staff (art. 6 (2));
- Ensure adequate selection and training procedures for public officials occupying posts prone to corruption (art. 7 (1));
- Enhance transparency in the funding of candidates for elected office and political parties, including through the adoption of a new law that would comprehensively regulate issues such as accounting obligations, public subsidies, private donations, public disclosure and expenditure limits (art. 7 (3));
- Provide clear rules and training for public officials concerning the conflict of interest system (art. 7 (4));
- Ensure the existence and effectiveness of work of public ethics commissions in all public bodies (art. 7 (4) and art. 8 (5));
- Ensure the effectiveness of the mechanism for public officials to report corruption, including through streamlining the existing processes, providing alternative confidential reporting channels, and providing guidance to public officials (art. 8 (4));
- Strengthen the asset declaration system, including through systematizing the verification process (e.g. introducing random or routine verifications), computerizing the system, raising awareness among public officials, effectively applying penalties for non-compliance, and assessing whether the current scope of the obligation covers all positions vulnerable to corruption (art. 8 (5));
- Continue ensuring that the rules on outside activities and employment are well known to public officials and enforced in practice (art. 8 (5));
- Consider introducing an obligation for public officials to declare gifts, adopting clear guidelines and lowering the current threshold for acceptable gifts (art. 8 (5));
- Effectively apply the disciplinary sanctions envisaged in the Law on Public Probity (art. 8 (6));
- Ensure that the system of domestic review in the area of public procurement is effective and capable of bringing results (art. 9 (1));
- Consider introducing clear screening procedures and training requirements for procurement personnel; and ensure the effectiveness of the system of domestic review, including through introducing the possibility to appeal a procurement decision in courts (art. 9 (1));

- With a view to successfully fighting the illicit use of public funds, strengthen e-SISTAFE by taking additional measures on transparency and accountability and effectively applying sanctions for non-compliance (art. 9 (2));
- Ensure the existence of an appropriate framework to preserve the integrity of accounting books, records, financial statements and other documents relating to public expenditure and revenue (art. 9 (3));
- Ensure the effective application of the Law on the Right to Information and give guidance to public officials and the public (art. 10 (a) and art. 13 (1));
- Consider publishing periodic reports on the risks of corruption in public administration (art. 10 (c));
- Enhance the independence of the judiciary, including through effectively applying disciplinary sanctions and promoting transparency in court processes and access to judgments; and increase training on integrity and anti-corruption (art. 11 (1));
- Strengthen the integrity of the prosecution service through adopting the envisaged code of ethics for prosecutors and increased training (art. 11 (2));
- Adopt clear auditing and accounting standards for the private sector, in particular ensure that private enterprises have sufficient internal auditing controls to assist in preventing and detecting corruption and that financial statements are subject to appropriate auditing and certification procedures, and effectively apply sanctions for non-compliance (art. 12 (1) and art. (2) (f));
- Ensure the effectiveness of the anonymous reporting hotline of the Central Office for the Fight against Corruption and so-called green lines, including by raising awareness and an effective follow-up to the complaints received (art. 12 (2) (a) and 13 (2));
- Increase transparency regarding the identity of beneficial owners (art. 12 (2) (c));
- Transparently regulate the use of subsidies and licenses for commercial activities (art. 12 (2) (d));
- Take legislative steps to prohibit the acts set out in article 12 (3), of the Convention (art. 12 (3));
- Disallow the tax deductibility of bribes (art. 12 (4));
- Continue to enhance the transparency of decision-making processes and taking legislative and practical measures to allow the public to participate (art. 13 (1));
- Consider establishing a single financial supervisory authority, or entrusting that role to the Bank of Mozambique and providing it with the necessary resources (art. 14 (1) (a));
- Insert a catch-all provision for designated non-financial businesses and professions to ensure that the regulatory and supervisory regime of the Law on Money-Laundering and Terrorist Financing is applicable to all professions exposed to the risk of money-laundering (art. 14 (1) (a));
- Consider establishing a clear risk-based approach (art. 14 (1) (a));

- Endeavour to adopt more memorandums of understanding between GIFiM and financial intelligence units outside the region and ensure that GIFiM becomes a member of the Egmont Group (art. 14 (1) (b));
- Consider requiring that the declaration of cross-border transfers is not only applicable to foreign currencies (art. 14 (2));
- Consider implementing preventive measures, including related to the identification of senders and beneficiaries, to all forms of electronic transfers, including outside financial institutions (art. 14 (3));

2.4. Technical assistance needs identified to improve implementation of the Convention

- Capacity-building (arts. 7, 8, 13 and 14);
- Institution-building (arts. 6, 13 and 14);
- Policymaking (arts. 5 and 13)

3. Chapter V: asset recovery

3.1. Observations on the implementation of the articles under review

General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)

Mozambique does not have extensive experience with regard to international cooperation in criminal matters and has not adopted any specific text on mutual legal assistance. At the time of the country visit, only the Law on Money-Laundering and Terrorist Financing contained provisions on international cooperation for asset recovery purposes and Mozambique has never received any request.

Mozambique has not signed any cooperation agreements related to confiscation and asset recovery.

Pursuant to article 48 of the Law on Money-Laundering and Terrorist Financing, the competent authorities of Mozambique are to provide the broadest possible cooperation to the competent authorities of other States. Article 2 (c) of the Law on GIFiM allows proactive disclosure by GIFiM to foreign financial intelligence units.

Mozambique is a party to the SADC protocol against corruption, the African Union Convention on Preventing and Combating Corruption and the Convention on Mutual Assistance in Criminal Matters between the States Members of the Community of Portuguese-speaking Countries.

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

The notion of beneficial owner is defined in the glossary of the Law on Money-Laundering and Terrorist Financing and in article 8 of anti-money-laundering

regulation. According to notice 4/GMB/2015 of the Bank of Mozambique, which sets out guidelines on preventing and combating money-laundering and the financing of terrorism, if the institution cannot determine whether the customer is acting for a third party or not, this must be reported to GIFiM.

Politically exposed persons are defined (glossary of the Law on Money-Laundering and Terrorist Financing). Politically exposed persons at the national level are included. All entities subjected to measures to prevent money-laundering must apply enhanced customer due diligence regarding politically exposed persons (art. 10, para. 3 of the Law; art. 16 of the regulation).

The notice of the Bank of Mozambique and the anti-money-laundering regulation provide for advisories regarding conditions of enhanced scrutiny. The notice of the Bank of Mozambique, which is limited to financial institutions, explains suspicious operations in detail (chapter V, section I) and categories of risks (annex 1). It obliges all staff to follow specific training on prevention and the fight against money-laundering and terrorism financing.

In its notice, the Bank of Mozambique also requests all institutions to regularly check sanctions lists of the Security Council. Banks also use commercial screening tools. Mozambique is currently developing a regulation on how entities should operationalize United Nations sanctions.

Records of transactions, accounts and customer due diligence must be kept for 15 years after the transactions or the closure of business (art. 17 of the Law; art. 19 of the regulation; chapter IV, sec. I, notice of the Bank of Mozambique).

Shell banks are defined (glossary of the Law). Their establishment, as well as their business relationships with banks which permit their accounts be used by shell banks is prohibited (art. 34, para. 2, of the Law; chapter III, sec. II, subsec. 3, of the notice).

Yearly asset declarations by public officials concern national and foreign assets but not an interest or right of signature in foreign countries. GIFiM can access asset declarations upon request. There are limited resources to monitor and verify disclosures, raise awareness and address non-compliance.

GIFiM has been established to receive, centralize and analyse suspicious transaction reports. In 2016, GIFiM received 536 such reports.

Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)

Natural and legal persons may initiate civil proceedings if they possess legal personality (art. 5, Civil Procedure Code), including foreign States as long as they hire a national lawyer. However, at the time of the country visit, the situation had not yet occurred.

Foreign court decisions must be validated by the national courts (arts. 225–229, Criminal Procedure Code). This provision applies in criminal matters, including confiscation (art. 1, Criminal Procedure Code). The Law on Money-Laundering and Terrorist Financing extends this procedure to money-laundering matters (art.

53). Mozambique does not allow direct enforcement of foreign confiscation orders.

Mozambique does not allow non-conviction-based confiscations, not even for purposes of mutual legal assistance.

The Law provides for the freezing and seizure of proceeds of crime in the framework of international cooperation (arts. 48 and 49). The procedure is enshrined in

article 38, and a court order is not mandatory. However, seizure and freezing can only be ordered based on a request from the foreign country (art. 49).

Pursuant to articles 225 to 229 of the Criminal Procedure Code and article 53 of the Law, a foreign court order must be reviewed and confirmed before it can be enforced. The Office of the Attorney General is the central authority. At the time of the country visit, Mozambique had never received such requests.

Mozambique does not require a treaty to cooperate for confiscation purposes. Provisions of the Convention are directly applicable despite the lack of a law on mutual legal assistance. The Convention has already been used in a cooperation case with Brazil.

Mutual legal assistance is provided in accordance with national law unless an agreement exists, and *de minimis* requests are not refused (arts. 50–52). Before lifting any provisional measure, Mozambique must inform the requesting State party of its intention (art. 52, para. 5).

Mozambique has provided a copy of its Law on Money-Laundering and Terrorist Financing to the Secretariat during the country visit.

Rights of bona fide third parties are protected (art. 39 of the Law; art. 45 of the regulation).

Return and disposal of assets (art. 57)

Confiscated goods, assets or amounts of money become the property of the State (art. 99–3 of the Penal Code).

Regarding seized goods, the judge may allow them to be sold by auction to preserve their value (art. 6, decree 21/71 on judicial services). There is no provision under which the defendant could buy off his own property. At the time of the country visit, Mozambique was in the process of establishing an asset management unit.

Mozambique has the right to dispose of confiscated proceeds of money-laundering (art. 54, Law on Money-Laundering and Terrorist Financing). It may enter into agreements with other States “for capital and properties confiscated” to be “shared between them”. It is unclear how the expenses associated with the return of assets are dealt with, since, at the time of the country visit, no such case had occurred yet and no agreement existed regarding asset return.

3.2. Successes and good practices

- The definition of politically exposed persons includes national politically exposed persons (art. 52 (1));
- The notice of the Bank of Mozambique obliges all staff of financial institutions to follow specific training on prevention and fight against money-laundering and terrorism financing (art. 52 (2) (a));
- Records of transactions, accounts and customer due diligence must be kept during 15 years after the operations or the closure of business (art. 52 (3));
- Mozambique has already used the Convention as the basis of mutual legal assistance granted to Brazil (art. 55 (3)).

3.3. Challenges in implementation

It is recommended that Mozambique:

- Adopt measures to extend mutual legal assistance, including on asset recovery, beyond money-laundering matters (art. 51);
- Issue advisories to all financial institutions regarding the type of natural or legal person to whose accounts they will be expected to apply enhanced scrutiny (art. 52 (2) (a));
- Adopt a regulation on how entities should implement United Nations sanctions (art. 52 (2) (a));
- Consider extending asset declaration requirements of public officials to the disclosure of an interest in or signature or other authority over a financial account in a foreign country (art. 52 (3));
- Address the recommendation under art. 8 (5) above (art. 52 (5));
- Monitor that in practice, a foreign State is able to initiate civil action in courts to establish title to or ownership of property acquired through the commission of a Convention offence, and to request compensation and damages; ensure that courts or authorities, when having to decide on confiscation, recognize another State's claim as a legitimate owner of property acquired through the commission of a Convention offence (art. 53);
- Take measures to permit its competent authorities to give effect to a confiscation order issued by a foreign court (art. 54 (1) (a) and (b));
- Consider taking measures to allow non-conviction-based confiscation in appropriate cases (art. 54 (1) (c));
- Consider taking measures to permit its competent authorities to preserve property for confiscation (art. 54 (2) (c));
- Monitor that in practice, when Mozambique receives a request from another State party for confiscation of proceeds of crime, it submits the request to its competent authorities for the purpose of obtaining a confiscation order and, if such order is granted, give effect to it (art. 55 (1));
- Endeavour to enhance direct cooperation, including proactive disclosure of information (art. 56);
- Endeavour to establish an asset management unit (art. 57);

- Extend asset return beyond money-laundering matters and monitor that when a request is made by another State party, Mozambique enables its competent authorities to return confiscated property in practice (art. 57 (2));
- Mozambique may wish to conclude agreements or mutually acceptable arrangements for the final disposal of confiscated property and consider waiving the asset sharing (art. 57 (5));
- Endeavour to adopt more memorandums of understanding between GIFiM and other national financial intelligence units outside the subregion and to ensure that GIFiM becomes a member of the Egmont Group; take measures to increase the number of suspicious transaction reports sent to GIFiM (art. 58);
- Consider signing bilateral or multilateral cooperation agreements including provisions on asset recovery (art. 59).

3.4. Technical assistance needs identified to improve implementation of the Convention

- Capacity-building (arts. 52 and 54–56);
- Institution-building (arts. 54–56);
- Legislative assistance (arts. 53–57);
- Facilitation of international cooperation with other countries (art. 54).

IV. Implementation of the Convention

A. Ratification of the Convention

Mozambique signed the Convention on 25 May 2004 and ratified it on 26 April 2006, by a Resolution no 31/2006 of 26 December of the Parliament. According to the Constitution of Mozambique, the Convention has become an integral part of domestic law with the status of ordinary law since it was ratified by the parliament (art. 18).

B. Legal system of Mozambique

Mozambique follows the tradition of Romano-Germanic civil law. The legal system is based on Portuguese civil law and on customary law. The most prominent institutions in fighting corruption are the Ministry of Justice, the Central Anti-Corruption Office in the corresponding office of the Attorney General's Office at the national level, the Financial Intelligence Unit and the Central Public Ethics Commission.

Mozambique listed the following laws as relevant in the area of anti-corruption:

Law no 6/2004, from 17 June (Establishing the Central Anti-Corruption Office);

Law no 22/2007 from 1 August (Organic Statute of Public Prosecution);

Law no 14/2012, from 8 February (Organic Law of the Attorney General's Office);

Law no 16/2012, from 14 August (Public Probity law);

Law no 15/2012, from 14 August (Witness Protection Law);

Law no 35/2014 from 31 December (The Criminal Code);
 Decree Law no 1/2005, from 27 December (Civil Procedure Code);
 Decree no 16489, from 15 February 1929 (Criminal Procedure Code);
 Ministerial Decree no 169/2007 (Manual of financial management and accounting procedures)
 Law no 9/2002 (State financial management system);
 Decree no 23/2004 Law no 14/2013 (Anti Money Laundering Law);
 Law no 14/2007 (Creates the Financial Information Office - GIFiM);
 Decree no 62/2007 (Establishes the organic status of GIFiM)
 Law 7/2012 (Law of bases of the Public administration)
 Law no 34/2014 (Law on access to information)
 Law no 7/2009 (Statute of judges)
 Decree no 66/2014 (Regulation of the Money Laundering Act)
 Notice no 4/GBM/2015 (Guidelines on the prevention and combating of money laundering)
 Decree no 62/2009 (Regulation of the status of civil servants)
 Law no 14/2011 (Regulates the formation of will of the public administration)
 Resolution no 33/2004 (Ratifies the SADC Protocol against Corruption)
 Law no 14/2009 (Statute of public officials and agents of the state)
 Law no 7/91 (Political parties law)
 Decree no 5/2016 (Public Procurement)

Since the entry into force of the new Constitution (2004), Mozambique has introduced legal norms in that area, among others: Public Probity Law (16/2012), the General Statute governing public officials and agents of State (14/2009), the Law on Prosecution (14/2012), and the Witness Protection Act (15/2012). The Criminal Code was amended by Law No. 35/2014. The Criminal Procedure Code is currently in the process of amendment.

A national anti-corruption strategy was implemented in 2007, following the creation of the Financial Intelligence Unit.

In 2012, the government adopted a new anti-corruption strategy for the public administration and in the private sector. Under the terms of article 522 of the Criminal Code, a public official is understood as a person who holds a mandate, charge, position or function in a public entity, by virtue of election, nomination, hiring, or any other form of investiture or designation, even if temporarily or without remuneration. That definition was harmonized through article 523 of the Criminal Code and the Code of Conduct, which seeks to assimilate any other existing terminology that may be used to define a public official in domestic law.

Mozambique listed the following three practices that it considers to be good practices in the implementation of the chapters of the Convention that are under review:

1. The establishment of the Mozambican Financial Information Office;
2. Adoption of a specific law on money laundering;
3. Adoption of the SADC treaty against corruption and the African Union Convention against Corruption.

As for steps to take in order to ensure full compliance with the chapters that are under review, Mozambique noted the need to improve its legislation regarding asset recovery measures set out in Articles 51 et seq. of the Convention.

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C. Implementation of selected articles

II. Preventive measures

Article 5. Preventive anti-corruption policies and practices

Paragraph 1 of article 5

1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.

(a) Summary of information relevant to reviewing the implementation of the article

In 2001, Mozambique initiated a process of reforms in Public Administration through the adoption of the Global Strategy for Public Sector Reform (EGRSP). This process sought to guide public institutions to improve the quality of their services and to obtain a culture of transparency, efficiency and effectiveness. The process included two phases – 2001-2005 and 2006-2011. Among others, the process resulted in: the revision of the organic statutes and staffing tables; the decentralization process aimed at demonstrating a strong commitment of the Government to bring the decision-making process closer to citizens; the improvement in the efficiency and financial management of the State by the adoption of the State Financial Management System (SISTAFE) and its electronic application; the promotion of transparency in public accounts and decentralization of funds from the national budget; and the review of the process of procurement.

In 2009, a national survey was carried out to evaluate the satisfaction of citizens with twelve areas of public services: licensing and certification of commercial activity; commercial registration; school enrolment; birth registration; criminal records; external consultations in hospitals; tax services; licensing of contractors; land certificates; certificates for the right of use; licensing of tourist activity; and issuance of driving licenses. The results of this survey were analysed in the light of Mozambique's performance on international indicators, such as the Corruption Perception Index and the Doing Business and e-Government Index, leading then to strategic efforts to improve these areas.

In 2012, the Government adopted the Strategy of Reform and Development of Public Administration (ERDAP, 2012-2025), which succeeded the 2001-2011 EGRSP. The ERDAP was adopted through a participatory and inclusive process that involved contacts with the various sectors and levels of the central Public Administration, local organs, academia, private sector, social partners and cooperation and civil society through consultation meetings, sessions and seminars.

The ERDAP lays out a vision for the Public Administration development in Mozambique over the period of 15 years and identifies key objectives to be achieved. It adopts an integrated approach to the different sectors both at central and local levels and aims to achieve a coordinated and synchronized implementation to ensure maximum synergies across various public institutions.

The ERDAP's three fundamental purposes are: to identify the strategic objectives and performance priorities of the entire Public Administration over the next 15 years; to specify which strategic activities contribute to the achievement of the defined objectives over a 5-year horizon; and to encourage the sharing of good practices and the concerted action of the various organs of the Public Administration. The ERDAP consists of the main strategy document, three 5-year action plans (which unfold in 15 annual action plans) and a communication plan.

The ERDAP is a flexible instrument, adjusted and updated annually (via the activities plan) through the Medium-Term Fiscal Scenario (CFMP), the Economic and Social Plan (PES) and the State Budget (OE), which are instruments of the 5-year Government Program.

The ERDAP outlines seven concrete strategic objectives to be pursued by the Public Administration in an integrated and transversal manner:

- a) Provide the Public Administration with qualified civil servants;
- b) Bring Public Administration closer to the citizens;
- c) Improve the quality of services;
- d) Strengthen the organization of Public Administration;
- e) Promote and disseminate a culture of integrity in the Public Administration and in the society;
- f) Use information and communication technologies and innovations to improve service provision; and
- g) Monitor the implementation and assessment of the results.

The defined strategic objectives are clustered in development components that reflect the main areas of improvement of public administration for the next 15 years. Five main components are:

Component 1 – Professionalization of Civil servant

Component 2 – Decentralization and Deconcentration

Component 3 – Improvement of Service Delivery

Component 4 – Consolidation and Coordination of the Structures of Public Administration

Component 5 – Enhancing Integrity in Public Administration

In addition, the ERDAP is supported by two transversal components that represent the elements of acceleration and concretization of the whole plan:

Transversal Component A - Technological Modernization and Innovation

Transversal Component B - Monitoring, Communication and Evaluation.

All sectors of the Public Administration at all levels are responsible for the implementation of the ERDAP and the development of capacities and competencies for its successful implementation. The operational management of ERDAP is within the responsibility of the Ministry of Public Service, which is responsible, among others, for the cross-cutting initiatives in the ERDAP implementation. The funding source for the ERDAP is the national budget and is also supported by supplementary financing mechanisms.

The ERDAP is operationalized through 5-year action plans, the first one of which was implemented between 2012-2014, in order to align with the 5-year Government Program 2010-2014. The 2015-2019 action plan is currently being implemented. Each action plan identifies the

initiatives to be implemented, their timeframe and the implementation responsibilities. Action plans are further spread out into activity plans on an annual basis.

The 2015-2019 action plan is an instrument that in all its components advocates for actions aimed to reduce opportunities for corruption, for example:

- in the professionalization component, through the introduction of e-sheets for salary payments for public officials to enhance transparency and quality;
- the approval of human resources management instruments, especially the recent revision of the Law on the General Statute for State Employees and Agents 14/2009 that includes various provisions that penalize breaches of integrity;
- training of employees and leaders in matters related to integrity;
- in the decentralization component, by strengthening the presence of the State at local levels, creating conditions to allow for swift decision-making and promoting mechanisms for community participation in decision-making processes;
- in the improvement of service provision component, through the simplification of procedures, the dissemination of service letters and electronic evaluation questionnaires to citizens to improve public services and find out more about the degree of satisfaction of public service users;
- in the consolidation of the structure component, it is planned to increase access to information and file management, in order to allow for greater transparency in the public management and a more informed participation of citizens in the management process;
- in the technological modernization and innovation component, actions are envisaged to adopt electronic processes for the management and provision of public services, with a view to reducing human intervention in the management of public affairs.
- strengthen e-SISTAFE, which is an electronic tool that ensures greater rigour and transparency in the financial management of the State.

In addition, in the “Combat Corruption” component, the following actions are planned:

- the operation of green lines, through which citizens can submit complaints, allegations concerning the corrupt behaviour of public servants;
- conducting research on corruption in public sector through an independent entity;
- the guarantee of asset and income declarations by all public servants to that extent required by law;
- the reinforcement of structures for the prevention and deterrence of corruption, such as general inspections of the Public Administration;
- the improvement of the public procurement system.
- the adoption of provincial and sectoral anti-corruption plans, through which local and central bodies define sector-specific actions to implement general anti-corruption guidelines and to address specific aspects of corruption.

The 5-year action plan is operationalized through annual action plans and through the insertion of its actions into the Economic and Social (Annual) Plans of the Central, Provincial and District Governments.

To ensure the involvement of all sectors of the Public Administration and the mobilization of the human and financial resources essential for the implementation of the ERDAP, the Government,

through the Ministry of Public Service, coordinates the process of monitoring the implementation of the ERDAP.

In particular, the monitoring of the ERDAP Action Plan comprises two levels:

- political level – the monitoring is carried out by the Inter-Ministerial Commission for the Reform of Public Administration (CIRAP), which is a body subordinate to the Council of Ministers chaired by the Prime Minister and composed of the following Ministers:

- Minister of State Administration and Public Service - Vice-President;
- Minister of Economy and Finance;
- Minister of the Interior;
- Minister of Justice, Constitutional and Religious Affairs;
- Minister of Science and Technology, Higher Education and Professional Technician;
- Minister of Transport and Communications;
- Minister of Education and Human Development;
- Minister of Industry and Commerce;
- Minister of Health; and,
- Minister of Labour, Employment and Social Security.

The sessions of CIRAP take place every quarter. The CIRAP produces semi-annual ERDAP implementation report as well as an annual balance sheet. The balance sheets for implementation of the ERDAP action plan 2012-2015 and 2016 have been examined by the Council of Ministers.

- technical level - which is ensured:

- at the central level, by the Ministry of State Administration and Public Service;
- at the local level, by the Provincial Secretariats.

Based on the monitoring results, the Ministry of Public Service and the CIRAP try to identify obstacles to the implementation and identify concrete actions to remove delays. Yearly progress reports on the implementation of the action plan are prepared by the Ministry of Public Service and the CIRAP and approved by the Council of Ministers.

According to the ERDAP (Transversal Component B), all sectors and local authorities annually insert ERDAP actions in the Economic and Social Plans, so that they are provided with a budget for their execution.

All sectors, provinces and districts draw their strategic plans to reinforce the ERDAP action plan, insofar as they incorporate actions to be implemented in the field of ethics, development of human resources, communication and information technologies, and efficient financial and asset management.

The implementation of the ERDAP and the action plans has resulted in numerous concrete actions aimed at prevention of corruption, such as: the adoption of the Law of Public Probity (Law 16/2012); the creation of the Central Ethics Commission in 2012 and the creation of Ethics Commissions within all public bodies in 2013; connection to e-SISTAFE in 129 districts, with more than 631 benefit Management Units (UGB's) using e-SISTAFE throughout the country and constituting a 72% coverage; and the revision and approval of a package of anti-corruption laws

(which includes the following laws: Organic Law of the Central Office to Combat Corruption; Code of Conduct for Public Officials, and Law on Conflicts of Interest).

The ERDAP Communication Plan 2012-2014, produced in August 2012, provides for the dissemination of ERDAP and the mobilization of relevant actors through a set of communication tools aimed at different audiences. In addition, an informative and interactive website on ERDAP has been developed. A newsletter informing about the stages of ERDAP's implementation, the activities already carried out and the planned initiatives is prepared and disseminated through press and internet and is directed not only at political actors and public administration bodies of central and local authorities, but also at academia, cooperation partners and the international community. The Ministry of Public Service is responsible for holding public events and lectures to promote the ERDAP for various audiences, including central public administration bodies, local public administration bodies and local authorities, academia, cooperation partners and the international community.

In addition, it should be noted that the Central Office for Combating Corruption (GCCC) within the Attorney General's Office is the main body in Mozambique with corruption-related mandates and, among others, develops strategies for the prevention and repression of corruption. For more information, please refer to the responses under article 5 paragraph 2 and article 6 of the Convention.

(b) Observations on the implementation of the article

In 2012, Mozambique adopted the Public Administration Development and Reforms Strategy (ERDAP), aimed at enhancing professionalism, integrity and accountability in public administration. ERDAP is operationalized through five-year action plans and reflected in concrete sectoral and provincial plans. Mozambique also adopted an ERDAP communication plan for 2012-2014 to sensitize relevant stakeholders of the strategy.

To date, ERDAP has resulted in the adoption of several concrete anti-corruption measures, including new laws, education campaigns and training for public officials, as well as the creation of the Central Ethics Commission (CEC) and sectoral public ethics commissions (PECs). The Ministry of State Administration and Public Service (MSAPS) and the Inter-Ministerial Commission for Public Service Reform (CIRES) are responsible for overseeing ERDAP's implementation and preparing yearly progress reports. However, it seems that the communication plan has not been updated for the current implementation period. Similarly, ERDAP only focuses on the public sector, and private sector corruption is left uncovered.

The review team concluded that Mozambique is in most part compliant with the provision under review and welcomed that the ERDAP had led to concrete results aimed at reducing corruption. However, it was noted that the strategy only focuses on public sector, while the private sector corruption and corrupt practices of third parties are left uncovered. Mozambique itself noted that the ERDAP has weaknesses and identified the development of a dedicated preventive anti-corruption strategy as a desired area of technical assistance. As such, **it is recommended that Mozambique consider including private sector in the national anti-corruption ERDAP strategy.**

Paragraph 2 of article 5

2. Each State Party shall endeavour to establish and promote effective practices aimed at the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

The Central Office for Combating Corruption (GCCC) within the Attorney General's Office is the main body in Mozambique with corruption-related mandates. It not only participates in the formulation of policies and strategies for the prevention and repression of corruption but is also responsible for proposing and implementing practical measures against corruption and contributes to the training of personnel specialized in preventing and combating corruption.

To increase cooperation at national level, the GCCC has signed memoranda of understanding with several public and private institutions, aimed at improving internal control systems within institutions and disseminating anti-corruption messages within society. In practice, the memoranda set the objectives, the lines of action, the responsibilities of the parties and finally the expected results. They are operated by joint teams that normally function on the basis of short-term plans. The means and budgets for the realization of these activities are shared by the parties.

For example, the Working Memorandum with the Ministry of Education foresaw the creation of anti-corruption centers in schools and the introduction of anti-corruption content in school curricula. For the materialization of these activities, joint teams were created to establish nuclei at schools and to train persons involved. The costs of this operation were shared. In particular, the anti-corruption nuclei in schools were created in a pilot phase in 2014 in seven of the eleven provinces of the country. In secondary schools, each nucleus is composed of the class heads (students) and class directors (teachers). With regard to primary education, teachers in each class form the nucleus, and should guide their students in carrying out activities related to the subject. After the training is provided by the GCCC, the individual nuclei prepare their own action plans aimed at preventing corruption crimes, including through the usage of the following means:

- Discussing anti-corruption materials during classes in accordance with school curricula;
- Giving lectures on various corruption-related subjects. The lectures may be given by entities, artists or other people with some prominence;
- Disseminating integrity and anti-corruption messages in schools and communities;
- Organizing study visits;
- Developing leaflets explaining the existing legal anti-corruption framework;
- Promoting writing competitions, drawings, crafts etc. promoting anti-corruption messages;
- Interaction with caregivers and the community.

Moreover, the GCCC carries out various awareness-raising activities, including the preparation and dissemination of materials (posters, brochures, flyers), the delivery of lectures at various levels and to various sectors of the society, the development of messages and advertisement on anti-corruption for the radio and television, the organization of press conferences, etc. In addition, the GCCC has put on the display various anti-corruption messages on public roads, border posts, airports, as well as disseminated in the public and private media of texts and images on corruption.

For example, in 2016, the GCCC conducted several awareness raising actions, such as:

- Completion of the production of the publication brochure of the Writing Contest on Corruption for students, with 600 copies being printed for distribution in schools and public institutions;
- Production of 10,000 decals for the dissemination of the Green Line of anti-corruption offices, distributed to motorists on public roads, as part of the passage on September 5, Legality Day;
- Use of mass communication, including TV and radio, to promote the need for asset declarations;

- Dissemination of the Green Line of anti-corruption offices, as well as to sensitize citizens to refrain from corrupt practices.
- Participation in television and radio programs by GCCC magistrates.

Also, in 2016, the GCCC produced the children's book on corruption and ethics, entitled "Lilito at School", as a complementary means in the formal educational process. With a print run of 50,000 copies and as a pilot stage, the copies were delivered to the Ministry of Education and Human Development for distribution in primary schools in the Maputo City and Province. The activity was conducted through a consultant funded by UNODC and aims to cover all primary schools in Mozambique. The GCCC is mobilizing funds for this purpose from cooperation partners.

As part of the actions coordinated together with Ministry of Education and Human Development, the contest "Best Poster on Corruption" was organized by the GCCC, in which all members of the anti-corruption nuclei of schools participated. The winning poster will be published as a symbol of prevention of and fight against corruption for the year 2017.

In September 2016, in order to involve the different public institutions in the fight against corruption and in coordination with the Ministry of State Administration and Public Service, the GCCC trained 565 trainers in order to empower them to promote and carry out measures to prevent and combat corruption in their respective institutions. The beneficiaries of the training were selected by the respective public institutions at the central and provincial levels, based on the criteria of suitability and integrity, and are mostly public servants who work in the areas of legal support, human resources, inspection and audit. The training activities were held in the City and Province of Maputo, Inhambane, Gaza, Sofala, Zambezia, Nampula, Cabo Delgado and Niassa.

Between June and December 2016 and in coordination with the provincial governments, the GCCC trained 178 inspectors from Gaza Provinces, Inhambane, Sofala, Nampula and Cabo Delgado in matters of prevention and fight against corruption. In November 2016, the GCCC selected 48 public employees of state-owned enterprises who then participated in a coordinated action with the Institute for Management of State Participations - IGEPE.

The training courses held in 2016 covered 791 public officials in total and dealt in general with topics related to the duties of public servants and the implications of their violation, the GCCC competencies, legal types of corruption, complaints mechanisms, conflict of interest system, asset declaration system and the ERDAP.

In 2016, a total of 384 lectures were held, with a participation of 22,496 public officials, compared to 322 lectures and 24,907 public officials in 2015.

In November 2016, the GCCC participated in the launch of the "vacancy is not paid" campaign, promoted by the Ministry of Employment, Labour and Social Security. The aim of this campaign was to contribute to the reduction of acts of corruption related to access to employment.

Each public body is subject to periodic inspections by the Ministry of Finance on the financial and administrative matters and by the Ministry of Justice on the legal matters. The issue of corruption is part of every inspection. The inspections result in the development of a report with concrete recommendations for correctional measures. If any recommendation is linked to the issue of corruption, the report is sent to the GCCC for their further follow-up.

The 2012 ERDAP strategy identified a set of goals and concrete indicators for each 5-year period, i.e. for the duration of each action plan, with a view to making a periodical evaluation of legal instruments and administrative measures possible. The indicators were chosen based on the research and studies prepared by Mozambique in 2009 and reflect the existing international indicators. In 2012, the performance of Mozambique was noted and goals were established based on these indicators for the years 2014, 2019 and 2024. Specific indicators related to a specific area

of each of the seven ERDAP components have been established, such as with regard to the training of public officials and the simplification of processes and procedures, The ERDAP's proposal for the evaluation of the Action Plan 2012-2015 from 2016 presents some results of the strategy's implementation. The document indicates, among others, that:

- In the scope of the Public Administration professionalization:
 - 15,103 technicians, between middle and higher education, were trained and graduated by Government schools;
 - 77 professional qualifiers and 74 staff schedules were approved;
- In the context of Decentralization and Deconcentration;
 - the National Decentralization Policy and Strategy was approved;
 - Law 11/2012, of February 8 that revises the Law 8/2003, of May 19, on Local Organs of the State, open Administrative Courts in all provinces, except Manica was adopted;
 - The financial resources of the local organs were expanded.
- In relation to the Improvement of Service Delivery:
 - Single Assistance Branches (BAU's) operating in the districts of Mutarara, Changara, Angónia, Nacala Porto and Lumbo, Mocímboa da Praia were created;
 - The Project of Integrated Platform of Services to the Citizen (e-BAU) was launched;
 - The Basic Law of the Public Administration Organization, Law no. 7/2012, of February 8, was adopted;
 - The African Charter on Values and Principles of Public Service and Administration was ratified;
 - 90 archives were organized, 28 of the organs and institutions of central level, 20 provincial, 37 district and 5 municipal.
- In relation to the Reinforcement of Integrity in Public Administration:
 - in addition to the several published laws, the Central Commission of Ethics was created in 2012;
 - the Ethics Commissions were created in all the Central Organs in 2013;
 - E-SISTAFE connection was implemented in 109 Districts, with more than 631 Benefit Manager Units (UGB's) using e-SISTAFE throughout the country and constituting a 72% coverage.
- In relation to Technological Innovation:
 - all 11 provinces of the country were linked through Gov-NET;
 - Civil, land and criminal records were computerized;
 - The development of criminal record system was completed;
 - The basic infrastructure for the operationalization of the integrated platform of the Citizen Services (e-BAU) was installed.
- With regard to the Monitoring, Communication and Evaluation Component:
 - assessment of corruption levels in the country was carried out and two reports on the monitoring of reform activities were produced and approved by the CIRAP.

The 2015-2019 action plan is currently being implemented. As the ERADP is a flexible document, this second action plan already presents changes both in the areas of action in relation to each of the seven components, and in relation to the strategic activities that derive therefrom and their respective indicators. The action plan envisages numerous activities to promote integrity and transparency in public administration, such as: the approval of the code of ethics for state officials and agents; campaigns, lectures, pamphlets and leaflets; sector plans and provincial plans; efforts to enhance the asset declaration system; full operationalization of the public ethics committees; reporting of corruption; conducting corruption surveys and publication of research reports; and stronger inspections.

(b) Observations on the implementation of the article

The GCCC carries out numerous activities aimed at preventing corruption. It has entered into memoranda of understanding with various ministries and institutions to promote communication and cooperation. For example, in partnership with the Ministry of Education, the GCCC has launched several projects aimed at educating children on anti-corruption, such as setting up anti-corruption centres in schools and including the anti-corruption content into school curricula. The GCCC prepares and disseminates various awareness-raising materials and messages and provides training to public officials and lectures to broader public.

In addition, each public body is subject to periodic inspections by the Ministry of Finance and the Ministry of Justice, which include anti-corruption components. If the inspection identifies any issue linked to corruption, the GCCC is notified for further follow-up.

Moreover, and as described under article 5 paragraph 1 in full detail, the adoption and implementation of the ERDAP has also led to numerous activities and practices aimed at the prevention of corruption.

It was concluded that Mozambique is in compliance with the provision under review.

(c) Successes and good practices

The review team recognized as a good practice the broad range of activities in schools aimed at preventing corruption, including the establishment of anti-corruption centers, the organization of contests, the development of a children book, the efforts to include anti-corruption content into curricula, and training of teachers.

Paragraph 3 of article 5

3. Each State Party shall endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Under resolution 1/2015 of 24 July 2015, the Ministry of Justice is mandated to:

- a) to promote the updating of the laws according to the socio-economic reality;
- b) to prepare proposals of laws;

- c) to provide legal opinions on proposals and draft laws and to methodically guide their preparation; and
- d) to ensure coordination, promotion, execution and follow-up on the legal reform.

These tasks are carried by the National Directorate for Legal and Constitutional Affairs within the Ministry, which is specifically responsible for:

1. Providing assistance, capacity-building and scientific and technical support in matters related to the legal reform matters;
2. Preparing programmes and studies and providing training courses for lawyers and other staff involved in legal counselling in central and local organs of the Public Service;
3. Elaborating legal opinions and developing legislative proposals;
4. Guiding, both technically and methodologically, the process of preparing legislative proposals;
5. Overseeing the publication and dissemination of studies on the administration of justice;
6. Promoting the dissemination of laws and other legal texts to general public;
7. Promoting the legal education for citizens and respect for the law;
8. Analysing, giving opinions and participating in the preparation of agreements, contracts and memoranda of understanding with national and foreign entities that imply commitments for the country;
9. Ensuring successive monitoring of justice sector legislation;
10. Issuing legal opinions on the constitutionality of acts carried out by public services organs;
11. Developing actions to promote the culture of respect for the Constitution and for the institutions established therein;
12. Monitoring compliance with the constitutional council's resolutions;
13. Permanently analysing the conformity of the legal instruments with the Constitution.

The Directorate seeks and receives legislative input from various Ministries and departments. In particular, each Ministry in Mozambique has its dedicated legal office that channels legislative suggestions to the Ministry of Justice.

The adoption of the 2012 ERDAP Strategy triggered a broad anti-corruption legislative reform. In particular, the following laws were adopted in response to the ERDAP's goals:

- Witness Protection Law 15/2012;
- Public Probity Law 16/2012;
- Organic Law of the Attorney General's Office 14/2012;
- Anti-Money Laundering Law 14/2013;
- Public Procurement Decree 5/2016;
- Approval of a new Penal Code, Decree 35/2014.
- The proposal of the new Code of Criminal Procedure is still under consideration by the Assembly, with a view to adapt the existing legal framework to the international requirements.

With regard to the assessment of corruption levels in the country, ERDAP establishes a Monitoring, Communication and Evaluation Component, which seeks the development of such assessments annually by the Inter-ministerial Commission for Public Sector Reform (CIRES). To date, two reports on monitoring and evaluating reform activities have been prepared.

In addition, several National Conferences of Good Practices in Public Administration were organized, aimed at gathering the general perception about the levels of corruption in the country and collecting ideas for improvement. Studies and research for the same purpose are produced by civil society organizations.

In 2009, a survey was carried out to evaluate the satisfaction of citizens with public services, covering 12 public administration services: licensing and certification of commercial activity; commercial registration; school enrolment; birth registration; criminal records; external consultations in hospitals; tax services; licensing of contractors; land certificates; certificates for the right of use; licensing of tourist activity; and issuance of driving licenses. The results of this survey were analysed in the light of Mozambique's performance on international indicators, such as the Corruption Perception Index and the Doing Business and e-Government Index, leading then to strategic efforts to improve these areas.

(b) Observations on the implementation of the article

The National Directorate for Legal and Constitutional Affairs within the Ministry of Justice is the entity responsible for overseeing the evaluation and reform of legal instruments in Mozambique. However, the mandate of the Ministry or of its Directorate does not specifically mention periodic nature of such evaluations.

The 2012 ERDAP Strategy triggered a broad anti-corruption legislative reform resulting in the adoption of several new laws, including the witness protection law, the law on public probity, the anti-money laundering law and the public procurement law.

Two national surveys were carried out in 2005 and 2010 to evaluate the satisfaction of citizens with public services. In addition, two studies on the level of corruption were developed by the CIRESA in 2004 and 2010-2011 and two national conferences on corruption were organized in 2013 and 2015, bringing together government representatives, civil society and academia.

It is concluded that Mozambique is in compliance with the provision under review.

Paragraph 4 of article 5

4. States Parties shall, as appropriate and in accordance with the fundamental principles of their legal system, collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. That collaboration may include participation in international programmes and projects aimed at the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Mozambique is a State party to the Convention against Corruption and as such cooperates with other States through the Conference of the States Parties and other subsidiary bodies. It has also participated in several UNODC training activities on anti-corruption.

Mozambique, through the African Union Convention on Preventing and Combating Corruption (ratified in 2006) and the Protocol of the Southern Africa Development Community Against

Corruption (ratified in 2004), has established collaboration platforms at regional and continental levels related to corruption prevention.

The Parliament has ratified the African Charter on the Values and Principles of Civil Service and Public Administration. Articles 9 to 12 of the Charter cover the issue of integrity and corruption.

Mozambique is a member of the Commonwealth Africa Anti-Corruption Centre (CAACC), established in Gaborone, Botswana, in which it participates, through the GCCC, in training courses on prevention and combating corruption.

Mozambique is a member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), the purpose of which is to combat money-laundering and terrorism-financing by implementing the Financial Action Task Force (FATF) recommendations. Mozambique is also a member of the Southern African Development Community (SADC), including its Anti-Corruption Commission.

The GCCC has entered into several memoranda of understanding with foreign preventive authorities in Portuguese-speaking countries and the neighbouring countries.

In 2016, the GCCC was part of the Ministry of Justice, Constitutional and Religious Affairs' team representing Mozambique in the Ministerial Meeting on Combating Bribery, organized by the Organization for Economic Co-operation and Development (OECD). A representative of the GCCC also participated in the first Meeting of the Steering Committee of the Project "Support for the Consolidation of the Rule of Law in the PALOP and Timor-Leste" (PACED) and staff from GCCC integrated a delegation composed of the Directors of the Anti-Corruption Offices held a working visit to the Central Department of Criminal Investigation and Criminal Action (DCIAP) as part of the implementation of the EU funding scheme

Mozambique has participated in meetings of the International Association of Anti-Corruption Authorities (IAACA) and has cooperated with the International Anti-Corruption Academy (IACA).

(b) Observations on the implementation of the article

Mozambique collaborates with other States on a bilateral basis as well as at regional and international levels. In particular, the GCCC has entered into memoranda of understanding with counterparts from several other Portuguese speaking and neighbouring countries.

Mozambique participates in various anti-corruption initiatives and fora, including the Southern African Development Community (SADC) Anti-Corruption Committee, the Eastern and Southern Anti-Money Laundering Group (ESAAMLG) and the Commonwealth Africa Anti-Corruption Centre. Mozambique cooperates with the IACA.

It is concluded that Mozambique is in compliance with the provision under review.

(e) Technical assistance needs

Policymaking: Mozambique indicated a technical assistance need in the development of a dedicated national preventive anti-corruption strategy.

Article 6. Preventive anti-corruption body or bodies

Paragraph 1 of article 6

1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate that prevent corruption by such means as:

(a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies;

(b) Increasing and disseminating knowledge about the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

The Central Office for Combating Corruption (GCCC) was created by the law 6/2004 of 17 June 2004 as the main body with the mandate for the prevention and suppression of corruption. The GCCC is an office within the Attorney-General's Office.

In accordance with Article 40 of the law 6/2004 and the Organic Law of the Attorney General's Office 14/2012, the GCCC participates in the formulation of policies and strategies for the prevention and suppression of corruption and contributes to the formation of specialized personnel in the prevention of corruption.

The composition of the GCCC looks as follows:

1. Director (Deputy Attorney General) (in line with article 40 F of the Law 14/2012)
2. Prosecutors (appointed by the Supreme Council of the Magistracy in accordance with article 58 of Law 22/2007. The requirements for their admission are included in article 85)
3. Investigators (members of National Criminal Investigation Service in Criminal Police who assist prosecutors in line with article 19 paragraph 4 of Law 6/2004)
4. Auditors and accountants (responsible for analysing financial information in the context of the investigation of economic crimes pursuant to article 40-I of Law 14/2012)
5. Officials of justice (responsible for carrying out procedural acts in support of prosecutors)
6. Administrative officials (responsible for the administrative management of the GCCC, such as finance and human resources)
7. Staff in the preventive department.

The GCCC has signed memoranda of understanding with several public and private institutions, aimed at improving internal control systems within institutions and disseminating anti-corruption messages within society. (Please also refer to the responses under article 5 paragraph 2). It has also signed memoranda with several authorities with similar corruption-prevention mandates from other Portuguese speaking and neighbouring countries.

The GCCC carries out various awareness-raising activities, including the preparation and dissemination of materials (posters, pamphlets), the delivery of lectures at various levels and to various sectors of the society, the development of messages and advertisement on anti-corruption for the radio and television, the organization of press conferences, etc. In addition, the GCCC has put on display various anti-corruption messages on public roads, border posts, airports, as well as disseminated in the public and private media of texts and images on corruption.

The GCCC also works in connection with other institutions, such as:

- General Inspectorate of Finance (IGF), within the scope of the inspection activity;
- Ministry of Interior (MINT) in actions to prevent and combat corruption at border posts and within the National Migration Service, as well as in preventive activities of the PRM in general;
- Tax Authority (TA) in carrying out internal training actions;
- IGEPE, in carrying out actions leading to the mitigation of corruption in the State Business Sector;
- Ministry of State Administration and Public Service, within the framework of the implementation of the Public Administration Reform Strategy (ERDAP);
- Ministry of Education and Human Development, in the implementation of the Working Memorandum;
- Legal and Judicial Training Center, in the training of the Public Prosecution Office magistrates;
- Ministry of Labour and Employment and Social Security, within the framework of the launch of the campaign “Vacancy is not for Sale”.

Each public body is subject to periodic inspections by the Ministry of Finance on the financial and administrative matters (for details please refer to the response under article 9(2)) and by the Ministry of Justice on the legal matters (for details please refer to the response under article 5(3)). The issue of corruption is part of every inspection. The inspections result in the development of a report with concrete recommendations for correctional measures. If any recommendation is linked to the issue of corruption, the report is sent to the GCCC for their further follow-up.

Another body with anti-corruption mandate is the Public Ethics Commission (PEC), established by the Law on Public Probity. The PEC is an independent body coordinating the State’s efforts to enhance integrity and transparency in the public sector, including on the issues of conflict of interest and asset declarations. In line with article 50 of the Law on Public Probity, it consists of nine members, three appointed by the government, three appointed by the Superior Councils of Magistrates and three members appointed by the parliament, for a term of three years. The chairmanship of the PEC is held on a rotating basis by each of the appointees of each of the three powers for an annual term of office.

The PEC is not a disciplinary body, and it only issues opinions on the issues brought to its attention (by media, other institutions, or any other sources).

Apart from the PEC, local ethics commissions for different sectors have been established to oversee the issue of ethics and integrity in public enterprises and autonomous public institutions. While the PEC provides guidance on functioning and methodology of work to these commissions, the commissions are independent in their work and have no reporting obligation towards the PEC. These commissions are made up of three persons, two elected by the public officials of the institution and one appointed by the leader of the Department as president.

As already noted under article 5 paragraph 1, the Ministry of State Administration and Public Service coordinates the process of monitoring implementation of ERDAP, but other bodies are also involved. In particular, the monitoring of the ERDAP Action Plan comprises two levels:

- political level - comprising the Inter-Ministerial Commission for the Reform of Public Administration (CIRAP), which is a body subordinated to the Council of Ministers chaired by the Prime Minister and composed as follows:
 - Minister of State Administration and Public Service - Vice-President;
 - Minister of Economy and Finance;

- Minister of the Interior;
- Minister of Justice, Constitutional and Religious Affairs;
- Minister of Science and Technology, Higher Education and Professional Technician;
- Minister of Transport and Communications;
- Minister of Education and Human Development;
- Minister of Industry and Commerce;
- Minister of Health; and,
- Minister of Labour, Employment and Social Security.
- technical level - which is ensured:
 - at the central level, by the Ministry of State Administration and Public Service; and
 - at the local level, by the Provincial Secretariats.

The GCCC, the PEC, the Ministry of State Administration and Public Service and the anti-corruption centers established in all Ministries and some central institutions of the State provide training to public officials on anti-corruption.

In September 2016, in order to involve the different public institutions in the fight against corruption and in coordination with the Ministry of State Administration and Public Service, the GCCC trained 565 trainers in order to empower them to promote and carry out measures to prevent and combat corruption in their respective institutions. The beneficiaries of the training were selected by the respective public institutions at the central and provincial levels, based on the criteria of suitability and integrity, and are mostly public servants who work in the areas of legal support, human resources, inspection and audit. The training activities were held in the City and Province of Maputo, Inhambane, Gaza, Sofala, Zambezia, Nampula, Cabo Delgado and Niassa.

Between June and December 2016 and in coordination with the provincial governments, the GCCC trained 178 inspectors from Gaza Provinces, Inhambane, Sofala, Nampula and Cabo Delgado in matters of prevention and fight against corruption. In November 2016, the GCCC selected 48 public employees of state-owned enterprises who then participated in a coordinated action with the Institute for Management of State Participations - IGEPE.

The training courses held in 2016 covered 791 public officials in total and dealt in general with topics related to the duties of public servants and the implications of their violation, the GCCC competencies, legal types of corruption, complaints mechanisms, conflict of interest system, asset declaration system and the ERDAP.

In 2016, a total of 384 lectures were held, with a participation of 22,496 public officials, compared to 322 lectures and 24,907 public officials in 2015.

In November 2016, the GCCC participated in the launch of the "vacancy is not paid" campaign, promoted by the Ministry of Employment, Labour and Social Security. The aim of this campaign was to contribute to the reduction of acts of corruption related to access to employment.

(b) Observations on the implementation of the article

The GCCC is the main body in Mozambique with preventive and suppressive mandates in the fight against corruption. The GCCC is part (the so called 'special organ') of the Attorney General's Office and is composed of prosecutors, investigators, auditors, accountants and other

staff. The office cooperates with public bodies as well as private institutions on the issue of the prevention of corruption. It carries out various awareness-raising activities and provides training and lectures to public officials and general public. The Ministry of Finance and the Ministry of Justice, as the bodies responsible for periodic legal and administrative inspections of all public bodies, transmit any corruption-related concerns to the GCCC for further action.

Other national bodies with the prevention of corruption-related mandates include the Public Ethics Commission, which oversees the State's efforts to ensure integrity and transparency in the public sector; sectoral ethics commissions within public institutions; and the Ministry of State Administration and Public Service, as a body responsible for coordinating and monitoring of the ERDAP's implementation.

The review team noted that Mozambique has ensured the existence of bodies, as envisaged in the article of the Convention under review. However, the relationship between the GCCC, as the main preventive body, and the Ministry of State Administration and Public Service, as the main body responsible for the implementation of the ERDAP, was unclear. In particular, it is unclear how the GCCC contributes to the ERDAP implementation and how it coordinates with the Ministry in this regard. It was observed that a large part of the GCCC's work was carried out on an ad-hoc basis and a structured approach to the prevention of corruption might be lacking. As such, **it is recommended that Mozambique strengthen coordination between the GCCC and the Ministry to ensure the ERDAP's effective implementation and enhance the GCCC's capacities and research activities in the areas not covered by the ERDAP.**

Paragraph 2 of article 6

2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.

(a) Summary of information relevant to reviewing the implementation of the article

The GCCC is integrated into the Attorney-General's (AG) Office. The AG's Office enjoys operational autonomy, as stated in article 234 paragraph 3 of the Constitution of the Republic and article 2-3 of the Organic Statute of the Public Prosecution, approved by Law 22/2007 on 1 August, reviewed by the Law in 14/2012, of 8 February. The GCCC has an autonomous budget, which is kept separate from the budget of the Attorney-General's Office. The size of the budget is determined based on the activities planned by the GCCC in the coming year and on the availability of financial resources within Mozambique for the coming economic year. Some financial resources are also provided to the GCCC by cooperation partners.

The composition of the GCCC looks as follows:

1. Director (Deputy Attorney General) (in line with article 40 F of the Law 14/2012)
2. Prosecutors (appointed by the Supreme Council of the Magistracy in accordance with article 58 of Law 22/2007. The requirements for their admission are included in article 85)
3. Investigators (members of National Criminal Investigation Service in Criminal Police who assist prosecutors in line with article 19 paragraph 4 of Law 6/2004)

4. Auditors and accountants (responsible for analysing financial information in the context of the investigation of economic crimes pursuant to article 40-I of Law 14/2012)
5. Officials of justice (responsible for carrying out procedural acts in support of prosecutors)
6. Administrative officials (responsible for the administrative management of the GCCC, such as finance and human resources)
7. Staff in the preventive department.

The disciplinary power over the prosecutors belongs to the Superior Council of the Magistracy under article 238 of the Constitution and article 55 of the Law 22/2007. The disciplinary proceedings, including the sanctions, are provided for in article 128 and following.

The Deputy Attorney General acts as the Director of the GCCC. He or she is appointed by the Attorney General according to article 81 of the Law 4/2017. There is no term in place for the Director and he or she can be dismissed by the Attorney General when necessary.

The prosecutors go through a public competition process of admission where they are subject to examination, followed by a specific training at the Center for Legal and Judicial Training, which is exclusively dedicated to the training of judges, prosecutors and other legal entities. Once specific examinations have been completed, the public prosecutors are appointed by the Superior Council of the Attorney General's Office. Pursuant to article 110 of Law no. 4/2017, the requirements for becoming a public prosecutor include: being a Mozambican; to be in full enjoyment of civil and political rights; be not less than 25 years old; be graduate in law; and have successfully completed the specific training course;

The investigators are seconded from the National Criminal Investigation Service, which selects those candidates with broad experience in the investigation of economic crimes.

Regarding training, the GCCC provides training to its employees, including with the support of UNODC. During 2016, the GCCC carried out 25 training activities with 165 participants, two training courses for 86 judges and three training courses for 16 police officers. For example, the first training courses for judges was facilitated by UNODC and comprised 35 participants and focused on corruption and money-laundering. The second training course for judges focused on special investigative techniques and international cooperation and was organized by the Judicial Training Center, with the support of the European Union. In addition, the GCCC organized 20 training courses for 63 officials from the administrative departments of the central and provincial offices. The courses focused, among others, on budget allocations, data collection, implementation of the Right to Information Act and processing and payments of wages.

Also, in 2016, the GCCC held the first seminar on corruption in Mozambique named "Using the Anti-money Laundering to Fight Corruption". The seminar was funded by UNODC and aimed at discussing and renewing institutional coordination mechanisms for research and at increasing the technical capacity of various actors in the justice administration system to investigate and prevent corruption. The event was attended by 102 participants, including magistrates and prosecutors, criminal investigation police officers, officials from the Ministry of Justice and others.

(b) Observations on the implementation of the article

The GCCC is integrated into the Attorney General's Office as its 'special organ', but it enjoys functional autonomy and its own budget. The AGO's operational autonomy is established (art. 234 Constitution, art. 2-3 Organic Law of the AGO). No legal basis exists ensuring specifically the GCCC's independence.

The Associated Attorney General acts as the GCCC Director. The Director is appointed by and answers to the Attorney General (art. 81 Law Organic Law of the AGO) and can be removed by him at any time. The GCCC staff (i.e. investigators, accountants, auditors, prosecutors, etc.) are seconded from various public bodies. The AGO oversees the secondment process, however, procedures for the recruitment and selection appear to vary and are unclear.

It is recommended that Mozambique establish a legal basis for the GCCC's independence, adopt clear rules on the appointment and removal of the GCCC director to provide safeguards against arbitrary dismissal, provide rules on the recruitment of the GCCC staff, and provide sufficient resources and specialized training to the staff.

Paragraph 3 of article 6

3. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption.

(a) Summary of information relevant to reviewing the implementation of the article

Mozambique has not officially informed the Secretary General of the preventive authority yet.

(b) Observations on the implementation of the article

Mozambique was reminded of its obligation to inform the Secretary General of its preventive authority.

(c) Technical assistance needs

Institution-building: Mozambique indicated the need to strengthen the GCCC's independence in the area of anti-corruption.

Article 7. Public sector

Paragraph 1 of article 7

1. Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavour to adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials:

(a) That are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;

(b) That include adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;

(c) That promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;

(d) That promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions. Such programmes may make reference to codes or standards of conduct in applicable areas.

(a) Summary of information relevant to reviewing the implementation of the article

The General Statute of Officials and State Agents (GSOSA, no. 14/2009 of 17 March 2017) and the corresponding Decree (no. 62/2009 of 8 September 2009) govern the process of hiring, retention, promotion and retirement of public officials. The Law no. 2/2011 of 19 October 2011 establishes the regime of hiring foreign personnel.

General Statute for Officials and State Agents

Article 6 (Impartiality)

(2) The access to public functions and career progress cannot be prejudiced by reason of race, sex, ethnic origin, place of birth, religion, degree of education, social status, parental marital status, profession or political choice, and is strictly comply with the requirements of merit and capacity of the interested parties.

Article 11 (Career personnel)

The performance of professional activities corresponding to permanent needs must be carried out by career staff, without prejudice to what is foreseen for the performance of duties on a service commission basis.

Article 12 (General requirements for appointment)

1. General requirements appointment for posts in the establishment plan of the state apparatus are:

a) Mozambican nationality;

b) Certificate of birth registration or identity card;

c). Age not less than 18 years and not more than 35 years;

d). Mental health and physical capacity for the performance of functions in the Public Administration proved by medical certificate;

e) Not having been retired or reformed;

f) Not to have been expelled from the Public Administration;

g) Not having been sentenced to imprisonment for a crime against the security of the State for a dishonourable crime or other crime manifestly incompatible with the exercise of public administration functions;

h) Regularized military situation;

i) Educational qualifications of the primary level of the National System of Education or equivalent, or qualifications specifically required in the respective qualifier.

2. The appointment to the establishment plan of the State apparatus shall be for an indefinite period.

3. Exceptionally, the Council of Ministers may define the situations in which entry into the State apparatus may be admitted to citizens over the age of 35.

Article 13 (Appointment)

1. Appointment to the place of the establishment plan of the State apparatus shall confer the status of official.

2. (...)

3. (...)

4. The appointment to a place of entry is provisional and has a probative character during the first two years of office.

5. Upon completion of the period provided for in the preceding paragraph, the provisional appointment shall automatically become definitive, unless there is a manifestation to the contrary during the first two years.

Article 22 (Mobility in cadres)

By determination of the President of the Republic, of the Prime Minister, by an agreement between heads of central and local bodies or a decision of the entity that oversees the Civil Service area, transfers of staff may be made between the staff of the State apparatus, without Prejudice to acquired rights.

Article 36 (Principles)

In the process of recruiting, selecting, ranking or grading the candidates, the following principles must be observed:

a) Freedom of candidacy, in the case of entry competition;

b) Disclosure of the selection methods to be used and the test program;

c) Objectivity in the evaluation method and criteria;

d) Equal treatment;

e) Neutrality in the composition of the jury;

f) Right to appeal.

Article 48 (Salary and supplement)

1. The salary shall be the remuneration of each official or agent of the State according to his or her career, category or function, as consideration for the work done for the State and consists of a certain amount of money paid to the official or agent at the right time and place.

2. All officials and agents of the State under an identical regime of service provision are entitled to receive equal pay for equal work.

3. The allowances and allowances granted to State officials and agents, whether permanent or not, under the terms to be regulated, shall constitute supplements to the salary.

Article 60 (Objectives)

1. The officials and agents of the State shall develop, through a process of formation and improvement, their technical-professional quality.

2. The frequency of training courses by previously selected State officials or agents is mandatory.

Article 139 (Right to retirement)

Retirement constitutes a social guarantee that the State recognizes to its officials and agents, in situations provided for in this EGFAE, provided that they have satisfied or will meet the expenses for retirement pension.

Article 140 (Acquisition of the right)

1. Officials or agents of the State, regardless of their form of service or nature, are entitled to retire, provided that they fulfil the following requirements:

a) Have satisfied or will pay the retirement pension charges;

b) Have completed any of the following requirements:

I. 35 years of service;

ii. 60 or 55 years of age, depending on whether they are male or female respectively, and who have provided at least 15 years of service;

iii. Have at least 15 years of service when judged utterly incapacitated.

2. The determining fact of retirement establishes the legal regime since and it is reported the calculation of length of service and the respective arrest.

Decree no. 62/2009 – Regulation of the General Statute for Officials and State Agents (EGFAE)

Article 1 (Subject matter)

The purpose of this Decree is to regulate Law no. 14/2009, of 17 March, which approves the General Statute for Officials and State Agents.

CHAPTER II - Constitution of the working relationship in the State

SECTION I - Appointment

Article 3 (Verification of the legal conditions of appointment)

1. Candidates for appointment to posts in the establishment plan of the State apparatus shall be aged not less than 18 years and not exceeding 35 years.
2. Exceptionally, the persons who enter the State apparatus, qualified with the upper level and those who at the time of the assignment perform other functions in the State apparatus, in particular in the situation of contractors or interim ones, are exempt from the upper limit of 35 years of age.
3. The exception provided for in the preceding paragraph does not cover individuals whose age does not allow them to render service to the State for at least 15 years before reaching retirement.
4. The age limit for entry into the state apparatus shall be observed until the date of delivery of the application documents for the entry contest.

CHAPTER V - Contests

Article 27 (Definition of a competition)

Tender is the set of acts or operations that are intended to recruit, select and classify or graduate, according to strict and objective criteria, people and officials who apply for places of entry or promotion in Public Administration and who meet the requirements previously Professional qualifiers.

Article 28 (General principles)

1. Entry and promotion competitions for the general regime, specific and special regime careers of the central establishment plan shall be opened and carried out at central level by the respective central bodies of the State apparatus.
2. For the professional careers of the provincial staff, entrance and promotion competitions are opened and carried out at provincial level by the provincial bodies of the State apparatus.
3. For professional careers in the district, entrance and promotion competitions are opened and carried out at the district level by the district bodies of the State apparatus.
4. The sectoral, provincial and district human resources bodies provide administrative support to the jury at all stages of entry and promotion competitions, under legally established terms.
5. In the process of recruitment, selection, classification or graduation of candidates, the following principles must be observed:
 - a) Freedom of candidacy in the case of entrance contests;
 - b) Prior disclosure of the selection methods to be used and the test program;
 - c) Objectivity in the evaluation method and criterion;

- d) Equal treatment;
- e) Neutrality of the composition of the jury;
- f) Right of appeal.

6. The other procedures relating to contests in the regime and special careers of the common area of the state apparatus shall be established by ministerial decree.

Article 29 (Exceptions)

1. Officials who, in the respective Public Administration sector, have obtained a professional academic or technical level corresponding to that required in the professional qualifiers, can be apportioned to a position with exemption of competition by means of a favourable assessment of their service information.
2. The impediment to benefit from the previous number occurs in cases in which the course is not of interest to the human resources development plan of the sector in which the official is affected.
3. In the case referred to in paragraph 1 of this Article, and if the number of candidates exceeds the vacancies to be filled, a proceeding of competition shall be opened.
4. The apportionment referred to in paragraphs 1 and 2 of this article shall be made by order of appointment, provided there is a vacancy in the establishment plan and availability of the budget, requiring the approval of the Administrative Tribunal.

Article 34 (Salary and supplement)

1. The salary shall constitute remuneration for each official or agent of the State according to his or her career, category or function, as consideration for the work done for the State and consists of a certain amount of money paid to the official or agent at the right time and place.
2. Allowances and allowances granted to State officials and agents, permanent or otherwise, to be determined by a specific diploma shall constitute supplement to the salary.

Article 41 (Determination of the salary)

The salary is determined by the index corresponding to the rank, class or category and salary group of the career in which the employee is framed.

CHAPTER VIII - Training

SECTION I - General principles

Article 75 (Objectives)

1. All officials and agents of the State shall develop, through a process of training and improvement, their technical and professional qualities.
2. The training is intended to enable officials to perform more efficiently their functions or to carry out functions of greater responsibility.

Article 76 (Bases of training)

The training of officials should be based on their level of education and technical or professional qualification.

Article 77 (Human resources development plans)

1. The sectors must have plans for the development of human resources in the short, medium and long term, taking into account the provisions of the previous article.

2. The Public Administration Training System (SIFAP in Portuguese) devises and implements principles, objectives, programs, mechanisms and instruments to ensure the continuous development of employees.

Decree Law no. 2/2011 - Regimen of hiring foreign personnel.

Article 2 (Scope)

1. This Decree-Law is applied to citizens of foreign nationality who perform remunerated activities in the Public Service, in the scope of the implementation of cooperation agreements including individual service contracts.

2. However, outside the scope of this Decree-Law are cases arising from the implementation of specific projects established in the scope of cooperation agreements

Article 3 (Conditions of employment)

1. The binding of citizens of foreign nationality to the exercise of activities in the Public Service is made by means of a fixed-term service contract, for a period of up to 5 years, and may be renewed once for an equal period, after an evaluation of her/his performance and service needs.

2. Exceptionally, due to an imperative and justified need for service, the contracting entity may, on a case-by-case basis, extend the duration of the contract referred to in the preceding paragraph for an additional period of up to 5 years.

3. The clauses established in service contracts must regulate the activity of the contractor and the specific conditions of the work.

4. Notwithstanding its renewal, the service contract of the citizen of foreign nationality does not become contract for an indefinite period and under no circumstances gives the contractor the status of official of the State.

5. Citizens of foreign nationality to be hired in accordance with Article 2 (1) of this Decree-Law shall send the Contracting Party, in order for it to pronounce before entering and contracting the country, the following documents:

- a) Photocopy of Passport;
- b) Statement that states that you have no criminal record;
- c) Statement of physical and mental fitness;

d) Certificate of literacy of the last degree acquired; and

e) Curriculum Vitae.

6. For the purposes of the Administrative Court's approval, the contractor must also attach a certified photocopy of the Passport and the Certificate of Equivalence issued by the Ministry of Education.

Ministerial Diploma No. 61/2000 - Regulation of competitions to access the careers of the general and special regime of the common area of the State apparatus.

Article 2 (General principles)

1. The opening of a contest for entry and promotion is done with the authorization of the competent official to appoint his career.

2. The competitions for admission and promotion for the careers of the common general framework shall be opened and carried out at national level by the respective central bodies of the State apparatus.

3. For the professional careers of the provincial board, entry and promotion competitions are opened and carried out at local level by the provincial bodies of the State apparatus;

4. The sectorial and provincial human resources bodies provide administrative support to the selection board at all stages the competitions of access and promotion in accordance with this Regulation.

5. When requested, the sectorial human resources bodies provide technical assistance to provincial bodies in conducting a competition for entry and promotion for local management professional careers.

6. In the process of recruitment, selection, classification or graduation of candidates, the following principles must be observed:

a) Freedom of application in the case of entrance examinations;

b) Prior disclosure of all acts related to the contest;

c) Objectivity in the evaluation method and criteria;

d) Guarantee of equal conditions and opportunities for all candidates;

e) Neutrality of the composition of the jury;

f) Right of appeal.

Article 3 (Type of competition)

1. The competitions consist of:

a. Competition for admission;

b. Competition for promotion.

2. The competition for admission to professional careers is open to all citizens bound or not to the bodies of the State apparatus and is intended to fill vacancies in the establishment plan.
3. The competition for promotion shall be compulsory for all officials of the same profession who satisfy the requirements laid down in Article 16 of that Regulation.

Article 4 (Constitution and composition)

1. The jury of a competition consists of 3 to 5 effective members and alternate members of the same number indicated by the competent leaders.
2. The director referred to in the preceding paragraph shall appoint the chairman from among the members of the jury, without prejudice to assuming the chairmanship himself, when circumstances so require;
3. The members of the jury may not be of a lower rank or class than the one for which the competition is open.
4. Any member of the jury may be extraneous to the body for which the competition is open, and his or her appointment must be made to the consent of the respective director.
5. The order of composition of the selection board must be affixed to the services or bodies to which the competition relates.
6. In exceptional cases, the jury may be advised by technicians of recognized competency.

Article 5 (Operation)

1. The jury can only function and deliberate when all its current members are present.
2. The decisions of the jury shall be taken by majority vote and no abstentions shall be admitted.
3. Notes shall be taken of the jury meetings, which shall include the time, date and place of the meeting, the agenda, the decisions taken and the reasons therefor, the members present and their signatures.
4. The functions of a member of the selection board shall be preferred to those of which the official is responsible, and it may be determined, where required by the number of competitors, that the official is deemed exclusively attached to those functions.

Article 9 (Fraudulent test)

1. The members of the jury shall take appropriate measures to prevent fraud by preventing candidates from communicating with one another or with others while conducting the examinations, and not allowing any person outside the service of competitions to approach the room where the tests are carried out or that it communicates with any of the competitors.
2. Competitors who commit any fraud, benefit from clarification or individual explanation provided by a member of the jury on how to resolve or interpret the points of evidence, will be immediately excluded and the member of the jury will incur disciplinary responsibility.

Article 10 (Confidentiality of tests)

1. Tests must be kept confidential until their completion.
2. Tests, as well as all subsequent acts, are null and void when it is proved that they are not confidential.

Chapter IV - Opening and period of validity of the competitions

Article 11 (Opening Notice)

1. The competition begins with the announcement of the opening notice, posted at work and disseminated by the media.
2. The period for opening the invitation to competition shall be at least 30 days from the date of publication of the notice.

Article 12 (Information to be included in the notice of opening)

1. The notice of the opening of the competition for admission must include either:
 - a) The professional career, their occupations and the place for which the competition is opened;
 - b) The selection method to be used;
 - c) The period of validity of the competition to fill the existing vacancies and those that will exist during the validity of the same;
 - d) The general and specific requirements referred to in the professional qualifier;
 - e) The indication of the service or Organizations before which the competition will take place and where the documentation may be delivered, as well as the places where the lists of admitted and excluded candidates will be posted;
 - f) The form and deadline for the submission of applications, which must be included in the application for admission, list of necessary documents and those whose presentation is dispensable, in the case of entrance examination.
2. In addition to what is indicated in paragraph 1 (b), the notice of the opening of the competition shall state:
 - a) The career for which the competition is open;
 - b) The indication of the service or Organizations before which the competition will take place;
 - c) The list of required candidates,

Chapter V - Admission requirements

Article 14 (Admission)

The certificates of education and the identity card are mandatory documents.

Article 15 (Promotion)

1. In competitive examinations, cumulative admission requirements are:

- a) Minimum time of 3 years of effective service in the class or category in which it is framed, taking into account the legally anticipated increases;
- b) Average rating of service not less than regular, in the last 3 years in the class or category;

Article 16 (Methods of selection)

1. In accordance with the requirements set out in the qualifiers of the professional careers indicated in the entry or promotion contest, the following selection methods are used either singly or in combination:

2. The selection methods shall be used according to the requirements corresponding to the functional content of the careers/occupations put out to tender.

3. Written and oral tests may cover theoretical and practical questions and aim to assess the candidates' academic and professional background, appropriate to the exercise of a particular occupation;

4. When it is necessary to demonstrate the ability and capacity of the candidate, according to the requirements set out in the respective professional qualifiers, the practical tests method is used.

5. The vocational training courses aim to improve the knowledge of the candidates for filling positions in a given career or occupation;

6. For the curricular evaluation, the candidate must indicate in his curriculum the academic qualification, the training and qualification acquired and the professional experience in the area corresponding to the career / occupation, as well as at least three names of reference entities for which the competition is open.

7. When the selection method is a curricular evaluation, the curriculum vitae must contain professional experience in at least the last 5 years in the respective area of activity.

8. The professional interview is designed to evaluate objectively and systematically the candidate's skills, knowledge, skills and attitude and may only be used in conjunction with one or more of the methods referred to in paragraph 1 of this Article.

Article 21 (Selection of professional average technicians)

1. To enter the careers of professional technician, professional technician of public administration and specialized technician, the selection can be made through specific academic course or of curricular evaluation followed by professional interview.

2. In the case of the specific academic year the candidates are graduated based on the classification obtained in the respective course.

3. For promotion, the selection is made through curricular evaluation followed by professional interview.

Decree n. 54/2009 - Careers and Compensation System

Article 9 (Admission)

1. Entry into the State apparatus shall normally take place by means of a competition.
2. The admission takes place, as a rule, in class E (trainee) in mixed careers and in step 1 of the horizontal careers.
3. In differentiated special regime careers, admission takes place in the lowest category of the career.

Article 10 (Promotion)

1. The promotion is the change to the next class or category of the respective career and operates to step to which corresponds immediately higher salary.
2. Promotion depends on the cumulative verification of the following requirements:
 - a) A minimum of 3 full years of effective service in the class or category in which it is framed;
 - b) Average performance evaluation of not less than the regular, in the last 3 years, in the class or category;
 - c) Approval in competition according to the qualifier of the respective career;
 - d) Existence of budgetary availability.
3. The promotion of class E to C in mixed careers is automatic, depending only on the permanence of 2 years of effective service in that class and performance evaluation of not less than regular.
4. The provisions of the preceding paragraphs shall not affect the definition of specific promotion rules for special regime careers.
5. The promotion does not require possession, takes effect from the date of the Administrative Court's visa and requires publication in the *Republic's Bulletin*.

Article 11 (Progression)

1. The progression is made by change of step within the respective salary range.
2. Progression depends on the cumulative verification of the following requirements:
 - a) Minimum time of 3 years of effective service in the step in which it is positioned;
 - b) Potential evaluation;
 - c) Existence of budgetary availability.
3. The progression from step 1 to step 2, in Single-class careers, is automatic, depending only on the permanence of 2 years of effective service in that step and the evaluation of performance not less than regular.

4. According to the specific nature of the sector, the Interministerial Civil Service Commission may approve specific criteria for the assessment of potential, on the proposal of the body concerned, after consulting the Central Steering Body of the National Human Resources Management System.

5. The progression shall not be published in the *Republic's Bulletin* or owned and shall take effect from the date of the approval of the Administrative Court.

6. The progression does not depend on the request of the interested party, and the services must be provided on a timely basis.

CHAPTER VII - Remuneration

Article 20 (Components of Remuneration)

The remuneration of State employees and agents shall consist of:

- a) Salary;
- b) Supplements.

Article 21 (Fixed salary)

1. The salary is determined by the index corresponding to the rank, class or category and salary group of the career in which the employee is framed.
2. Echelon is each of the salary positions created for the horizontal careers or the salary range of each class or category of mixed careers.
3. The salary structure comprises the indexes organized in salary bands corresponding to the classes of the salary group in which each career is integrated.
4. Salary group is the set of salary indices attributed to a career due to its complexity, responsibility and required qualification requirements.

Public Probity Law

Article 5

The designation for a public office by appointment, appointment or contract implies strict observance of the constitution and legality, as well as the principles and duties of professional ethics that guarantee the prestige of positions and the entities invested in them.

As can be seen from the provisions cited above, recruitment of public officials is subject to competition (article 34 GSOSA). Recruitment process is decentralized, i.e. each Ministry or department administers it individually, as well as each district and province (article 28 of Decree 62/2009). Recruitment is governed by the principles of publicity, equality of opportunity and objectivity. The recruitment process starts with the publication of vacancy announcements in the newspapers, followed by the preliminary selection of candidates according to how they meet the requirements for the position and the merit demonstrated in the selection process. The recruitment process is carried out by a neutral jury (see competition rules approved by Ministerial Diploma No. 61/2000 of 5 July 2000). According to the competition rules, any complaints regarding the

recruitment process may be lodged with the jury or the hiring entity (i.e. district administrator, provincial governor, ministers and other central bodies). In addition, unsuccessful candidates can appeal to the Administrative Court, which operates in all provinces.

While legislation does not formally prescribe any rotation policy for public sector, there is an established practice of rotation for certain public positions. In particular, public officials who occupy posts prone to corruption in accordance with the results of the Second Survey on Governance and Corruption are subject to rotation, including tax authorities, protection police, traffic police, criminal investigation services, customs officers and magistrates.

As for the issue of remuneration, the Careers and Compensation System has been approved by Decree 54/2009 and introduces salary tables for public officials. In particular, remuneration is based on the complexity and level of responsibility of professional occupations, as well as the qualification requirements for the position (article 21 of the Decree 54/2009). Based on merit and performance, public officials may progress on the salary scale and be promoted (articles 10 and 11 of the Decree 54/2009). While the salary policy intends to increase salaries of public officials, financial constraints exist in the country.

Training to public officials is provided by the Ministry of State Administration and Public Service on various cross-cutting matters. In addition, several sectoral training institutions are in place. The GCCC provides ‘train-the-trainers’ workshops to the training institutions on the issue of corruption and integrity. The institutions then incorporate the anti-corruption element into their training curricula.

(b) Observations on the implementation of the article

The General Statute of Officials and State Agents (14/2009, GSOSA) and its corresponding Decree (62/2009), the Decree on Careers and Compensation System (54/2009), Decree on hiring foreign personnel (2/2011), and Ministerial Diploma on regulation of competitions in the public sector (61/2000, MDRC) regulate recruitment, hiring, retention, promotion and retirement of public officials. In particular, the GSOSA lists the general requirements for appointment (art. 12), enumerates the principles of recruitment (art. 36), calls for mobility in the public sector (art. 22), provides for equal salaries (art. 48), and regulates the right to retirement (art. 139-140). Ministerial Diploma 61/2000 regulates the competitive recruitment process, including publication of vacancy notices, composition of juries and selection methods and procedures. Decree 54/2009 on Careers and Compensation system includes the rules for promotion and remuneration.

The GSOSA states that recruitment of public officials is based on the principles of transparency, objectivity, freedom of candidacy, neutrality in the composition of juries etc. (art. 36).

Public bodies are responsible for their own recruitment process through established human resources departments.

In general, vacancies are published in national newspapers. A neutral jury prepares a shortlist of candidates meeting the required criteria and organizes oral or written tests. According to GSOSA, any complaints regarding the process may be lodged with the jury, the hiring entity or the Administrative Court.

Although the mechanism to determine positions vulnerable to corruption is unclear, there is an established practice of rotation for public officials occupying such positions, as identified in the second national corruption survey (e.g. tax authorities, traffic police, customs officers).

Decree 54/2009 introduces salary tables for public officials and provides that remuneration is based on the qualification requirements and complexity and level of responsibility of a given position (art. 21). Salary progress can be made based on merit and performance (art. 10).

The Ministry of State Administration and Public Service is the body responsible for the provision of training to public officials. In addition, several sectoral training institutions are in place and the GCCC also provides training to selected public officials on the issue of corruption and integrity.

It is recommended that Mozambique ensure adequate selection and training procedures for public officials occupying posts prone to corruption.

Paragraph 2 of article 7

2. Each State Party shall also consider adopting appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to prescribe criteria concerning candidature for and election to public office.

(a) Summary of information relevant to reviewing the implementation of the article

The following positions in Mozambique are elected: president; members of the national assembly; members of municipal assemblies (article 3 of Law 4/2013 as amended by Law 11/2014); president of the municipal council (Law 7/2013); ombudsman (Law 7/2006); members of public ethics committees (article 51(2) of the Public Probity Law and the criteria set out in article 52(2) of the Public Probity Law. They are elected internally by eligible public officials).

Law 7/2013 (Altered by Law 10/2014) – Election of the president of the municipal council

Article 3 (Elective principle)

The president of the council and the members of the municipal assemblies are elected by universal, direct, equal, secret, personal, and periodic suffrage of Mozambican citizen citizens residing in the respective autarky, under the terms of this Law.

Article 12 (Right to dismiss duties)

1. In the thirty days preceding the date of the elections, the candidates for president of the municipal council and for the member of the municipal assembly or of the township are entitled to exemption from the exercise of their functions, whether public or private.
2. The waiver time referred to in the previous number shall count for all purposes, such as actual time of service, including the right to remuneration.

Article 13 (Suspension of the exercise of the function and transfer to the reserve)

1. Judicial magistrates, public prosecutors and diplomats heads of mission who, in accordance with this Law, intend to run concurrent municipal elections, shall request the suspension of the exercise of the function, from the moment the application is submitted.
2. The period of suspension shall count for all purposes as an effective period of service.
3. Military and paramilitary agents in active service who wish to run for president of the municipal council or for a member of the municipal assembly, lack the presentation of documentary evidence of passage to the reserve or reform.

4. The bodies to which the military and paramilitary agents referred to in the previous paragraph depend must grant their authorization whenever requested to do so.

Article 24 - Formal requirements of presentation

1. The presentation of the candidature consists of the presentation of the request for participation in the election of the president of the municipal council or of the village, of the members of the municipal assembly or of the village and of the nominal list of the respective candidates, indicating the full name, of identity and validity, voter card number and criminal registration certificate number of each candidate, instructed with the individual processes of the electorate citizens proposed, according to the order established in said list and respecting the sequence of attached documents required by each candidate, according to the n. Paragraph 2 of this Article.

2. For each of the candidates, the individual application process signed by the candidate must contain:

a) Authenticated photocopy of the identity card or, failing that, the birth certificate or birth certificate;

b) Authenticated photocopy of voter's card or document attesting to being registered in the updated electoral census;

c) Attestation of residence that attests to residing in the autarchy by which it competes;

d) Certificate of criminal record of the candidate;

e) Declaration of acceptance of candidacy and list agent;

f) Declaration of the candidate, which is unrecoverable at all times, which it states is not covered by any ineligibility and does not appear on any other application list.

3. The residence certificate shall be removed whenever the identity card or the voter registration card certifies that the candidate resides in the autarchy for which he/she is competing.

4. Where lists of candidates are submitted by a coalition of political parties or competing groups of citizens, the nomination of the political party or group of electorate electors proposed by each of the candidates is mandatory.

5. The individual application processes are deemed to be in a regular situation when in the act of receipt by the National Elections Commission, made the verification one by one, is recorded in a proper form, they are in accordance with the formal requirements of their presentation and according to the order established in this article.

Article 25 (Verification of applications and publication of accepted and rejected lists)

1. The National Elections Commission shall, no later than 60 days after the deadline for submitting applications, verify the individual candidature dossiers as to their regularity, the authenticity of the documents that form part of it and the candidates' eligibility.

2. Within ten days after the deadline for verifying the regularity of individual candidatures, in accordance with the preceding paragraph, the President of the National Electoral Commission shall have copies of the accepted candidates accepted in the place of style of their premises, with the competent Deliberation of acceptance or rejection of candidates.

Article 180 (Application of ineligible citizen)

He who, having no passive electoral capacity, wilfully accept his candidacy will be punished with imprisonment from six months to two years and a fine of one to two national minimum wages.

Law 4/2013 (altered by Law 11/2014) – Election of the members of the Provincial Assemblies

Article 13 (Passive electoral capacity)

Eligible citizens are those who, at the time of the election, have reached the age of eighteen years, are regularly registered and are not covered by any passive electoral disability provided for in this Law and reside in the territory of the province in which they compete.

Article 14 (Passive electoral incapacity)

Members of the provincial assembly are not eligible:

- a) Citizens who do not have active electoral capacity;
- b) Those who have been judicially declared habitual offenders of difficult correction;
- c) Citizens who have renounced the previous term of office.

Article 15 (Incompatibilities)

1. The mandate of member of the provincial assembly is incompatible with the function of member of the Government at the central, provincial, district, deputy minister, secretary of state, permanent secretary, head of the administrative and local post, deputy of the assembly of the republic and members and members of local authority bodies.
2. The members referred to in number 1 of this article who are elected members of the provincial assembly and intend to remain in that office must give up their mandates in accordance with the law.
3. The member of the provincial assembly mentioned in the previous number resumes his mandate in the assembly, in case he does not carry out any of the functions mentioned in n. Paragraph 1 of this Article.
4. The mandate of a member of the provincial assembly is also incompatible with jobs paid by foreign states or by international organizations.

Article 16 (General Ineligibilities)

1. Ineligible for a member of the provincial assembly:
2. Members of the National Electoral Commission and members of its support bodies, as well as officials and cadres of the Technical Secretariat of the Electoral Administration and their representations at the provincial, district or city level, shall also be unaffected by a member of the provincial assembly.
3. Judicial and prosecutorial magistrates, members of the military and militarized forces and security forces who, under the terms of this law, wish to run for the elections shall request the suspension of the exercise of their functions from the moment they submit their application.

Law 8/2013 altered by Law 12/2014 – Election of the President and of Deputies from the Republic's Assembly

Article 14 (Suspension of the exercise of the function and transfer to the reserve)

1. Judicial magistrates, public prosecutors and diplomats heads of mission who, under the terms of this Law, intend to run for presidential or legislative elections shall request the suspension of the exercise of the function, from the moment the application is submitted.
2. The suspension period counts for all purposes as time of effective service.

3. Military and paramilitary agents in active service who wish to apply for the President of the Republic or a deputy of the Assembly of the Republic, need documentary evidence of passage to the reserve or reform.

4. The bodies to which the military and paramilitary agents referred to in the previous paragraph depend must grant their authorization whenever requested to do so.

Public Probity Law 16/2012

Article 51 (Other ethics committees)

2. The Public Ethics Committees shall consist of three persons, two elected by the officials of the institution or public enterprise, whose names are subject to approval by the highest official of the institution, who shall appoint a third person as president of the Commission.

Article 52 (Requirements)

1. Members of the CCEP shall be appointed from among Mozambican citizens of recognized moral merit and of high suitability and integrity who are not covered by paragraph 2 (c) and (d) of this article.

2. CEP members shall meet the following requirements:

- a) have been an employee for at least 5 years;
- b) to have excelled in the service by merit, sense of responsibility, efficiency and good treatment in human relations;
- c) have not been subject to disciplinary sanctions in the last five years;
- d) not to have been convicted of a guilty crime in violation of the duties of the public function, or other crime of wilful character.

Law 7 2006 (Ombudsman)

Article 1 (Functions)

The ombudsman is a body of the State whose function is to guarantee the rights of citizens, the defence of legality and justice in the performance of Public Administration.

Article 2 (Scope)

The functions of the ombudsman include public administration activities at the central, provincial, district and local levels, as well as municipal, defence and security forces, public institutes, public enterprises and public service concessionaires. Companies with publicly-owned capital, of services for the exploitation of public domain assets.

Article 4 (Election and possession)

1. The Ombudsman is elected by the Assembly of the Republic by a two-thirds majority of the deputies in office and takes office before the President of the Assembly of the Republic. (...)

Article 5 (Requirements and eligibility)

The Ombudsman is elected among citizens of Mozambican nationality, at least thirty-five years of age, of recognized probity and impartiality.

Nomination requirements for public positions are listed in article 12 of the General Statute for Officials and State Agents and include:

- A) not less than 18 years of age;

- B) mental health and physical capacity to perform the function certified by a doctor;
- C) has not been retired;
- D) has not been convicted for a crime against state security, or for a crime punishable with a minimum of eight years in prison, or for a crime manifestly incompatible with the exercise of functions of public administration.

Public Probity Law

Article 35

The public servant must abstain from making decisions, carry out any act or enter into a contract whenever he is in any situation that constitutes a conflict of interest or that may create in the public the perception of lack of integrity in his conduct.

Article 57

The exercise of public functions is subject to the declaration of rights, income, titles, shares or any other kind of assets and values, located in the country or abroad.

(b) Observations on the implementation of the article

Criteria concerning candidature for and election to public office are set out in the Law for the Election of the President and the Members of Parliament (LEPMP), the Law on the Election of the President of the Municipal Councils, the Law on the Election of Members of Provincial Assemblies, the Law on the Ombudsman and GSOSA. Elected public officials are subject to mandatory asset declarations (art. 58 LPP).

Paragraph 3 of article 7

3. *Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.*

(a) Summary of information relevant to reviewing the implementation of the article

The basic **Law for the election of the president of the republic and the members of Parliament** (Law 12/2014) establishes in article 38 that it is the responsibility of the National Election Commission to approve the criteria for the distribution of public funding funds for presidential and legislative elections,

Article 37 states that the electoral campaign is financed by:

- A) Contribution of the candidates themselves, their respective parties, party coalitions or groups of proponent citizens;
- B) Voluntary contribution of national and foreign citizens;
- C) Product of the activity of the electoral campaigns;
- D) Contribution of national and foreign friends parties;

E) Contribution of national or foreign non-governmental organizations;

The state budget must provide for funding for the election campaign, to be disbursed to the addressees until 21 days before the start of the campaign;

It is forbidden to finance electoral campaigns of candidates, parties, coalitions of parties or groups of citizens electing candidates by foreign governments, governmental organizations and institutions or national or foreign public companies.

The entities referred to in the previous number may contribute to finance or to reinforce the budget of the state budget foreseen for electoral campaign.

Article 17 of the **Law 7/91** of 23 January 1991 **on Political Parties** states that:

The financing of political parties will be done by:

- A) the contribution of its members;
- B) donations and bequests;
- C) sums inscribed in the general budget of the state; or
- D) other forms of financing.

Article 18 (Donations and bequests)

Donations and bequests must be the subject of a declaration to the state body responsible for registering parties, mentioning their actors, the nature and value of the parties.

Article 19 (Financial Regimen)

1. The revenue and expenditure of political parties shall be broken down into annual reports which shall indicate, inter alia, the source of revenue and the implementation of expenditure.
2. (...)
3. The accounts of the parties referred to in number 1 shall be published in the *Republic's Bulletin* and in one of the most widely distributed newspapers.
4. The bodies of the State, legal persons governed by public law and legal persons governed by private law and public utility shall finance or subsidize political parties, except for the amounts entered in the General State Budget for this purpose.

Article 21 (Accounting and inventory)

Every political party must have an organized accounting and an inventory of their property and furniture as well as at least one bank account.

Laws related to election of the public positions referred to under article 7, 2 bring similar dispositions concerning the funding of candidates.

Law 4/2003 changed by LAW 11/2014 (Election of Members of Provincial Assemblies)

Article 43 (Financing of the electoral campaign)

1. The election campaign is funded by:
 - a) Contribution of candidates and political parties themselves, coalition of parties or groups of proponent citizens;
 - b) Voluntary contribution of national and foreign citizens;

- c) Product of the activity of the electoral campaigns;
- d) Contribution of national friends parties;
- e) Contribution of national non-governmental organizations.

2. The State Budget must provide for funding for the electoral campaign to be disbursed to the addressees, until twenty days before the start of the electoral campaign.

3. The financing of electoral campaigns for candidates and parties or coalitions of political parties or groups of proponent citizens by foreign governments, governmental organizations, and national or foreign public institutions or enterprises shall be prohibited.

4. The entities referred to in the previous number may contribute to finance or reinforce the budget of the State provided for the electoral campaign.

Article 44 (Financing by the State)

1. It is the responsibility of the National Election Commission to approve the criteria for distribution of public funding funds for the elections.

2. In the distribution of funds, only the proportion of the applications presented according to the places to be filled must be taken into account.

3. The financing referred to in this article must be made up to twenty-one days from the date set for the beginning of the electoral campaign.

Article 45 (Accounting of expenses and revenues)

1. Election candidates must account separately for all revenues and expenditures incurred in the electoral campaign arising from State funding, by line and by each type of election, and communicate them to the National Elections Commission, within a maximum period of 60 days After the official proclamation of the results of the counting.

2. All funds allocated by the State referred to in the previous article, which are not used or have been used for purposes other than establishment in this Law, shall be returned to the National Election Commission.

Article 46 (Liability for accounts)

Candidates, political parties or party coalitions, as the case may be, are responsible for sending individualized and detailed accounts of candidacies and election campaigns.

Article 47 (Provision and assessment of accounts)

1. The National Electoral Commission shall assess the regularity of the accounts within a period of 60 days and shall publish its conclusions in the Republic's Bulletin and in one of the most widely circulated newspapers in the country.

2. In the case of verifying any irregularities in the accounts, the National Elections Commission notifies the party or coalition of parties, the group of electing voters or application for rectification, within a period of fifteen days.

3. If persons competing in elections are not accountable, within the time limits laid down in paragraph 1, Article 45 (1) of this Law, or if they do not submit new accounts in accordance with 2 of this article or, if it is concluded that there has been an infraction of the provisions of article 45, the National Electoral Commission participates to the Public Prosecution Service, for a procedure, according to the law.

Article 48 (Prohibition of the use of public assets in electoral campaign)

1. It is expressly prohibited to use political parties or coalitions of parties and other candidates in the election campaign, state assets, local authorities, autonomous institutes, state-owned enterprises, public enterprises and capital companies exclusively or mainly public.
2. The public property referred to in articles 32 and 33 of this Law is not subject to the provisions of the preceding paragraph.

Law 8/2013 altered by Law 12/2014 – Election of the President and of Deputies from the Assembly of the Republic

Article 37 (Financing of the electoral campaign)

1. The election campaign is funded by:
 - a) Contribution of candidates and political parties themselves, coalition of parties or groups of proponent citizens;
 - b) Voluntary contribution of national and foreign citizens;
 - c) Product of the activity of the electoral campaigns;
 - d) Contribution of national friends parties;
 - e) Contribution of national non-governmental organizations.
2. The State Budget must provide for funding for the electoral campaign to be disbursed to the addressees, until twenty days before the start of the electoral campaign.
3. The financing of electoral campaigns for candidates and parties or coalitions of political parties or groups of proponent citizens by foreign governments, governmental organizations, and national or foreign public institutions or enterprises shall be prohibited.
4. The entities referred to in the previous number may contribute to finance or reinforce the budget of the State provided for the electoral campaign.

Article 38 (Financing by the State)

It is for the National Electoral Commission to approve the criteria for distributing public funding funds for presidential and legislative elections, and in the second case to take into account only the proportion of the candidatures submitted in accordance with the places to be filled.

Article 39 (Accounting of expenses and revenues)

1. Election candidates must account separately for all revenues and expenditures incurred in the electoral campaign arising from State funding, by line and by each type of election, and communicate them to the National Elections Commission, within a maximum period of 60 days After the official proclamation of the results of the counting.
2. All funds allocated by the State referred to in the previous article, which are not used or have been used for purposes other than establishment in this Law, shall be returned to the National Election Commission.

Article 40 (Liability for accounts)

Candidates, political parties or party coalitions, as the case may be, are responsible for sending individualized and detailed accounts of candidacies and election campaigns.

Article 41 (Provision and assessment of accounts)

1. The National Elections Commission evaluates the regularity of revenues and expenses within 60 days and publishes its conclusions in one of the most widely read newspapers in the country and in the Republic's Bulletin.

2. In the case of verifying any irregularities in the accounts, the National Elections Commission notifies the party or coalition of parties, the group of electing voters or application for rectification, within a period of fifteen days.

3. If the persons competing in the elections are not accountable, within the time limits laid down in paragraph 1, Article 39 (1) of this Law, or if they do not submit new accounts in accordance with 2 of this article or, if it is concluded that there has been an infraction of the provisions of article 39, the National Elections Commission participates to the Attorney General's Office, for a procedure, according to the law.

Article 42 (Prohibition of the use of public goods in electoral campaign)

1. It is expressly prohibited to use political parties or coalitions of parties and other candidates in the election campaign, state assets, local authorities, autonomous institutes, state-owned enterprises, public enterprises and capital companies exclusively or mainly public.

2. The public property referred to in articles 32 and 33 of this Law is not subject to the provisions of the preceding paragraph.

No law in place that regulates the matter.

(b) Observations on the implementation of the article

Although some provisions exist in the Law for the election of the President and the Members of Parliament (12/2014), Mozambique self-identified the need to adopt a new law on the funding of candidatures for elected public office and the funding of political parties that would comprehensively cover the matter and introduce transparency. **It is therefore recommended that Mozambique enhance transparency in the funding of candidatures for elected office and political parties, including through the adoption of a new law that would comprehensively regulate issues such as accounting obligations, public subsidies, private donations, public disclosure and expenditure limits.**

Paragraph 4 of article 7

4. Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

(a) Summary of information relevant to reviewing the implementation of the article

The Public Probity Law (16/2012) establishes a system of conflict of interest in Mozambique. The objective of the conflict of interest system is to promote public trust in the integrity of public actions and the decision-making processes through the establishment of norms and procedures promoting the rule of law, ethics, justice, transparency, respect for the fundamental rights and freedoms of citizens, probity and professionalism.

Public Probity Law 16/2012

Article 19

The public servant must abstain from participating in any decision-making process, including in his previous phase of consultations and information, in which his connection with external activities is or may be affected by the official decision, may compromise his judgment or give rise, with reasonableness, doubts about its impartiality.

Article 20 (Duty to declare property)

The public official upon assuming office shall declare, under oath, his income and property interests, prior to his inauguration, as well as his modifications during the term of office.

Article 25 (Prohibitions during the exercise of the office)

During the exercise of the function, it is prohibited to the public servant:

- a) To use the official power or influence deriving therefrom to confer or seek special services, appointments or any other personal benefit that implies a privilege for himself, his family, friends, or any other person, for remuneration or not;
- b) To issue norms for its own benefit;
- c) To use the official title, badges, letterhead of the institution, or the prestige of it for personal or private matters;
- d) To use the services of subordinate personnel, as well as the services that the institution provides, for its own benefit, of family or friends, except the royalties to which it is entitled;
- e) To participate in financial transactions using inside information, not public, and that has obtained by reason of the position or function;
- f) To accept payment or fees for speech, conference or similar activity for which you have been invited to participate as a public agent;
- g) To carry out work and activities, whether remunerated or not, outside their public function, which are in conflict with their duties and responsibilities or whose exercise may reasonably give rise to doubts about impartiality in decision-making, unless exceptions are allowed by law;
- h) To collect or request, directly or indirectly, contributions or contributions from other public services for any purpose;
- i) To collect or solicit, directly or indirectly, in the hours of work, contributions or handouts of other benefactions for the purpose of giving or offering it to a superior;
- j) To act as agent or lawyer of a person in administrative or judicial claims against the entity that serves;
- k) To request foreign governments or private companies, special collaboration for travel, scholarships, lodging, cash offers or other similar donations, for their own benefit, their spouse, brother, ascendant and descendants, in any degree of the straight line or to a third party, except when such request arises from the exercise of the function or position;
- l) To benefit from those who are legally entitled and abusively use, for his own or third parties' purposes, the means entrusted to him for the performance of his duties, such as budgetary funds, service vehicles, photocopiers, telephones, computers, fax, scanners and other equipment;
- m) To contract for advisor, consultant or press attaché, workers, collaborators who render services in a media body.

Article 35

The public servant must abstain from making decisions, carry out any act or enter into a contract whenever he is in any situation that constitutes a conflict of interest or that may create in the public the perception of lack of integrity in his conduct.

Article 36 (Categories)

1. The conflict of interests covers the following types or categories:

- a) Relationship of kinship and affinity;
- b) Property relationships;
- c) Offers and gratifications;
- d) Illegitimate use of the quality of public agent in beneficial;
- e) Status of former owner or member of a public body.

2. Although this law does not expressly refer to any situation corresponding to any of the types or categories referred to in the preceding paragraph, the public servant must raise the doubt before the Ethics Committee of the sector, under the terms of this Law or, in its absence, before the respective hierarchical superiors whenever, potentially, their interests may conflict with those of the public entity or service in which they are.

Article 37 (Relationship of kinship and affinity)

1. There is a conflict of interest arising out of kinship relations where the public servant has to make decisions, practice an act or conclude a contract in which he has Financial interest or any other nature:

- a) His spouse, whatever the property regime, or person with whom he lives as such;
- b) An upward or downward slope in any degree of straight line;
- c) Any relative up to the second degree of the collateral line;
- d) Straight line up to 2nd grade;
- e) The adopted children.

2. The provisions of the preceding paragraph shall also apply in those cases in which interests, although not financial, may influence the impartiality and impartiality of those who must take the decision.

Article 38 (Exceptions)

The situations referred to in the previous article do not prevent the public servant from being a teacher of any of the relatives or related or who can provide them with health care.

Article 39 (Patrimonial relations)

For the purposes of this Law, it is considered that there are patrimonial relationships that may create a conflict of interests when the public servant:

- a) Is a holder or representative of another person in shares or shares-in any commercial, civil or cooperative society, which has an interest in a decision, business or any other type of relationship of an equity nature, with the entity to which it belongs and which has Interest in the decision to be taken;
- b) Carries on a liberal or other professional activity which relates directly to the body or entity in which it provides services;
- c) Provides services, even if applicable, to an undertaking whose activity is controlled, supervised or regulated by the entity to which the agent is linked;
- d) By himself or by a person, whether natural or legal, engages in professional advisory or professional activity, depending on the services of private or private entities, in matters in which he must intervene or have intervened because of his status as a public servant;

e) Has a business relationship or carries out activities that directly or indirectly imply the maintenance of a service relationship with a natural or legal person that has an interest in the decision of the agent or collegiate body to which he belongs;

f) Is a creditor or debtor of an individual or legal entity that has an interest in its decision or that of the collegiate body to which it belongs.

Article 48 (Individual Responsibility)

It is the individual responsibility of the public servant to identify and manage personal situations of conflict of interest.

Article 49 (Institutional responsibility)

1. It is the institutional responsibility of all public entities to ensure the dissemination and knowledge of the rules of conduct among their agents, as well as the general public.

2. It is also the personal responsibility of senior leaders of public institutions to put into practice policies, procedures and support systems for public servants on how to identify and manage conflicts of interest.

Article 50 (Central Commission of Public Ethics)

1. The Central Public Ethics Commission (CCEP) is created with the following attributions:

a) to administer the conflict system established in this Law;

b) to establish rules, procedures and mechanisms to prevent or prevent potential conflicts of interest;

c) to assess and monitor the occurrence of situations that constitute a conflict of interest and determine appropriate measures for its prevention and elimination, including the submission of complaints or criminal participation with the Public Prosecution Service;

d) to guide and coordinate the action of the Public Ethics Commissions;

f) to guide and resolve doubts and controversies regarding the interpretation of the rules that regulate conflicts of interest, established in this Law and in other laws, without prejudice to the jurisdiction proper to the courts;

f) to receive and proceed with public complaints related to situations of conflicts of interest, and deliberate or refer them to the competent bodies to promote disciplinary or criminal proceedings;

g) to ensure the protection of complainants of conflicts of interest, in accordance with the general regime for the protection of witnesses, victims, complainants and other procedural operators;

h) to publicize and promote the ethical principles and duties of the public servant;

I) to submit, for the government's decision and for the purposes of applying this Law, in article 4, point q, other political positions that may be created.

2. The Central Commission of Public Ethics consists of nine members, three appointed by the Government, three by the Assembly of the Republic and three by the High Councils of Magistrates, for a term of three years and may be re-elected only by interim mandates.

3. The presidency of the CCEP shall be held on a rotating basis by each of the appointees of each of the powers for an annual term of office. Your choice is in pairs.

Article 51 (Other ethics committees)

1. In the central bodies of the State, in the subordinate institutions or under their tutelage, in the autonomous institutions, public companies or public capital, there are Commissions of Public

Ethics - CEP that, under the guidance and coordination of the Central Commission of Public Ethics, guarantee and supervise the application of the rules of the system of conflicts of interest.

2. The Public Ethics Committees shall consist of three persons, two elected by the officials of the institution or public enterprise, whose names are subject to approval by the highest executive officer of the institution, who shall appoint a third person as chairman of the Commission.

3. If the official objects to one or both of the persons proposed, he shall choose the substitutes from among three substitutes also proposed by officials.

Article 52 (Requirements)

1. Members of the CCEP shall be appointed from among Mozambican citizens of recognized moral merit and of high suitability and integrity who are not covered by paragraph 2 (c) and (d) of this article.

2. CEP members shall meet the following requirements:

a) Have been an employee for at least 5 years;

b) To have excelled in the service by merit, sense of responsibility, efficiency and good treatment in human relations;

c) To have not been subject to disciplinary sanctions in the last five years;

d) To have not been convicted of a guilty crime in violation of the duties of the public function, or other crime of an intentional nature.

Article 54 (Denunciation and Argument of Conflict of Interests)

1. Any interested citizen may request the Public Ethics Committee or the hierarchical officer of the public agent concerned to declare a conflict of interests pending a decision or if the act or contract is not carried out.

2. The application under the terms of the preceding paragraph suspends the whole procedure until the decision of the Public Ethics Commission or the superior.

3. If the interested party finds that there is a conflict of interests after taking a decision, the practice of the act or the conclusion of the contract, he may appeal the act in general terms.

Article 55 (Articulation)

The Central Commission for Public Ethics and the Public Ethics Commissions transmit to the Central Office for Combating Corruption - GCCC and the Provincial Offices for Combating Corruption - all its deliberations on confirmed cases of conflict of interest, regardless of whether or not they constitute corruption.

Article 57 (Declaration of equity)

The exercise of public functions is subject to the declaration of the rights, income, titles, shares, or any other kind of assets and values, located in the country or abroad, which constitute the private property of the official.

Article 59 (Content of the declaration)

1. The declaration, in addition to the personal identification data, must contain in a detailed manner all the elements that allow a thorough evaluation of the assets and income of the declarant and his or her spouse or person living with him or her in a situation analogous to that of a spouse, children under age and legal dependents, and is organized in two parts, according to the following numbers.

2. Part I of the declaration contains the personal identification data of the declarant and his or her spouse or person living with him / her in a situation similar to that of spouse, minor children and legal dependents.

3. Part II contains the elements, ordered by major headings, that allow a rigorous assessment of the assets and income of the declarant and his or her spouse, or person living with him or her, minor children and legal dependents, at the time when it is provided that the declaration, existing in the country or abroad, namely the following:

A) real estate assets. Quotas, shares or other corporate shares of capital of civil or commercial companies, rights in vessels, aircraft or motor vehicles, rights of use and use of land, more than one hectare, securities portfolios, bank accounts, and provided that it exceeds 100 minimum civil service salaries, current bank accounts and credit rights, in Mozambique or abroad;

B) a description of the respective liabilities, namely in relation to the State, credit institutions and any companies in Mozambique or abroad;

C) the mention of positions held or exercised in the two years preceding the declaration. In public or private companies and in national or international organizations in Mozambique or abroad;

D) the indication of the gross taxable income, for the purposes of the Personal Income Tax, as well as of other income exempt or not subject to the same tax.

4. The declaration required under this Article shall be included. In addition to the assets of the spouses, or the person with whom the declarant lives as such, that of the minor or incapacitated children or other legal dependents.

5. The declaration covers the elements referred to in the preceding paragraphs, even if produced. Incorporated, received, exercised or rendered outside the country.

6. The elements referred to in the preceding paragraphs must be described in such a way as to clearly establish their nature. situation. Identification, source, amount, value, issuing entities, depositories, creditors or debtors, and other information that, in each case, may be relevant.

Law 14/2009 – General Statute for Officials and State Agents (GSOSA)

Article 6 (Impartiality)

1. In the exercise of public functions, State officials and agents act with impartiality;

[...]

3. Impartiality requires that officials and agents of the State abstain from practicing the acts or participating in the practice of administrative acts or contracts, in particular to make decisions that are in their own interest, their spouse, relative or similar, as well as other entities with which it may have a conflict of interest, under the terms of the law.

Decree 30/2001 (Administrative procedure)

Article 17 (Disqualification)

It is forbidden for the agent of the Public Administration to practice or participate in an administrative procedure or in an act or contract of public or private law in which the Public Administration is a party in the following cases:

a) When it has an interest in itself as a representative or business manager of another person;

- b) When, by himself or as a representative or business receiver of another person, his spouse, a relative or a relative in a straight line or up to the second degree of the collateral line, and any person with whom he lives in the common economy are interested in him;
- c) Where it is of interest to a company in whose capital it has, either jointly or jointly with the persons referred to in the preceding subparagraph, a holding in its capital;
- d) When he has intervened in the procedure as an expert or agent or has given an opinion on the matter to be resolved;
- e) When against him, his spouse or relative in a straight line is brought a lawsuit filed by the interested party or his or her spouse;
- f) In the case of an appeal by any of the persons referred to in paragraph b or with their intervention.

Article 18 (Argument and declaration of impediment)

1. The impediment must be immediately communicated, under penalty of serious disciplinary offense, by the agent of the Public Administration that is considered impeded, to the respective hierarchical superior or to the president of the collegiate body of which he holds, as the case may be.
2. The impediment can also be raised by any interested party, until a final decision is rendered or the act is taken, in an application where the facts that constitute its cause are specified.
3. It is incumbent upon the superior or the president of the collegial body to know the existence of the impediment and declare it, within 8 days, hearing if it deems necessary, the agent of the Public Administration. As it is an impediment of the president of the collegial body, the decision is the responsibility of the body itself, without intervention of the president.

Article 19 (Effects of the complaint and declaration of impediment)

1. Without prejudice to the taking of urgent measures in case of emergency, the agent of the Public Administration must suspend his activity in the procedure as soon as he makes the communication referred to in n. 1 of the previous article or is aware of the application referred to in 2 of the same article, until a decision on the impediment is made, except in writing to the contrary of the respective hierarchical superior or deliberation to the contrary of the collegial body.
2. Declared the impediment, will be the agent of the Public Administration immediately replaced in the procedure. In the case of a collegiate body, if there is no or cannot be designated a substitute, the body will function without the presence of the disabled member.

Article 20 (Excuseless and suspicion)

1. The agent of the Public Administration must request exemption from intervening in the procedure, act or contract when circumstances occur because of which it may be suspected of his exemption or of the correctness of his conduct and in particular:
2. On a similar basis to those of Article 2 1 and until a final decision is rendered, any interested party may, upon request, invoke the suspicion of the agent of the Public Administration intervening in the procedure, act or contract.
3. The request for exemption and the request for suspicion must indicate precisely the facts that justify them.
4. The agent of the Public Administration will always be heard on the suspicion claims against him deducted.

5. The decision on the request for exemption or request for suspicion shall be taken within ten days by the entities referred to in n. Article 18 (3)

Case example:

The Minister has been appointed for 2 years and comes from the private sector. In the exercise of the office of Minister signed a memorandum of understanding that linked the government and one of his companies that manages one of the harbours of the country. The Central Commission for Public Ethics has declared a conflict of interest and such agreement has been rescinded.

Mozambique also referred to its responses under article 8 paragraph 5 of the Convention.

(b) Observations on the implementation of the article

The LPP establishes the conflict of interest system and prohibits public officials to engage in acts and processes that would compromise impartiality or create the perception of lack of integrity (art. 19, 25 and 35). The law explains that conflict of interest may arise for various reasons, including family links, assets, gifts or former employment (art. 36).

The Central Commission of Public Ethics (CCPE) oversees the application of the LPP in the area of conflicts of interest and guides the work of individual public ethics commissions (PECs) in determining measures to prevent conflicts of interest (art. 50). The LPP envisages the establishment of PECs within all public entities (art. 51-52). The CCPE and PECs transmit all its deliberations on confirmed cases of conflict of interest to the GCCC (art. 55).

The Law establishes the obligation for public officials to self-identify a potential conflict of interest and inform of this fact their respective PEC or, in its absence, respective superiors (art. 36 para. 2 and 48). In addition, the LPP establishes the institutional responsibility for each public entity to put in place policies, procedures and support systems for public officials in this area (art. 49).

Violation of the rules on conflict of interest constitutes a disciplinary offence punishable by dismissal or expulsion (art. 87). If the act constitutes a crime, the Penal Code or specific legislation, such as LFAC, apply (art. 88).

The reviewers concluded that Mozambique is in compliance with the provision under review but encouraged it to **provide clear rules and training for public officials concerning the conflict of interest system. It is also recommended that Mozambique ensure the existence and effectiveness of work of PECs in all public bodies.**

(c) Technical assistance needs

Capacity-building: Mozambique indicated that technical assistance would be beneficial in strengthening the conflict of interest system.

Article 8. Codes of conduct for public officials

Paragraph 1 of article 8

1. In order to fight corruption, each State Party shall promote, inter alia, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system.

(a) Summary of information relevant to reviewing the implementation of the article

While there is no separate code of conduct for public officials in place, the Public Probity Law can effectively be considered a code of ethics for public officials.

The Decree no 30/2001 of 15 October 2011 (Administrative Procedure) also deals with the subject, listing a series of principles of ethics and moral principles of officials and public officials.

In order to guarantee the fulfilment of the duties, the Central Commission of Public Ethics and sectoral public ethics committees were created (articles 50 and 51 – Public Probity Law).

The Public Probity Law was adopted as an instrument to prevent public morality and respect for public property, by public officials. The law defines the scope of public servant, indicating precisely to whom it applies. It establishes duties such as the duty of public probity, the duty of objectivity and public interest, the duty of respect for the public patrimony, the duty to declare assets, among others. It also establishes probations during the exercise of the position, in relation to third parties and in the use of public goods. The Code establishes a set of ethical standards. It establishes the system of conflict of interests, the types of conflict of interests where it clearly determines the regime of offers and gratifications admissible and not admissible. It creates the central Commission of public ethics, establishes the regime of the declaration of assets and finally establishes the sanctions regime.

Public Probity Law 16/2012

Article 5 (Principles and ethical duties)

1. The designation for a public office by election, appointment or contract implies strict observance of the constitution and legality, as well as the principles and duties of professional ethics that guarantee the prestige of positions and the invested entities in them.
2. The exercise of the public function must be directed towards the satisfaction of the good, which is its ultimate and essential purpose.
3. In the performance of their duties, the public servant is always aware of the social values of peace, security, freedom and justice.
4. The public servant should inspire confidence in citizens to strengthen the credibility of the institution they serve and their managers.

Article 6 (Ethical principles)

The public servant, in addition to the general duties contained in the constitution, and without prejudice to the provisions of specific legislation, governs its performance by the following ethical duties and principles:

- a) Non-discrimination and equality;
- b) Legality;
- c) Loyalty;
- d) Public probity;
- e) Supremacy of public interest;

- f) Efficiency;
- g) Responsibility;
- h) Objectivity;
- i) Justice;
- j) Respect for the public patrimony;
- k) Reservation and discretion;
- l) Decorum and respect towards the general public;
- m) Excuse of participation in acts that entails a conflict of interests;
- n) Declaration of patrimony/assets;
- o) Parsimony and competency.

Article 9 (Duty of public probity)

The public servant observes the values of good administration and honesty in the performance of his or her function, and may not solicit or accept for himself or for third parties, directly or indirectly, any gifts, loans, facilities or any offers that may jeopardize the Its independence, its independence and the credibility and authority of the public administration, its bodies and services

Article 29 (Norms of Ethical Conduct)

The holder or member of a public body must perform the functions that correspond to his position, in accordance with the provisions of this Law, and without prejudice to what is provided in its own statute.

Article 30 (General principles)

1. The holder or member of a public body shall perform functions intended to satisfy the public interest and the realization of the common good, so that in the exercise of its prerogatives the public interest always prevails over personal, political or other interests.
2. In the exercise of his or her functions, the holder or member of the public body shall always bear in mind the social values of peace, security, freedom and justice.

Article 31 (Ethical obligations)

It is the ethical duties of the holder or member of a public body;

- a) perform the function with probity;
- b) depositing the sworn statement on the absence of incompatibilities or impediments to the exercise of the position, up to 30 days after taking office;
- c) refrain from invoking its quality in order to carry out its personal and private interests, including professional activities in favour of third parties;
- d) refrain from participating in the discussion and deliberation of matters in which it has a particular interest that may cause a conflict of interest under the terms of Chapter II of this Law.

The Decree no 30/2001 of 15 October 2011 also deals with the subject, listing a series of principles of ethics and moral principles of officials and public officials.

Article 6 (Principle of fairness)

1. In the exercise of its functions and in its relationship with natural or legal persons, the Public Administration must act in a fair and impartial manner.

2. Impartiality requires that the holders and members of public administration bodies refrain from practicing or participating in the practice of administrative acts or contracts, in particular to make decisions that are in their own interest, their spouse, relative or similar, and other entities with which it may have conflicts of interest, in accordance with the law.

Article 7 (Principle of transparency of Public Administration)

1. The principle of transparency implies the disclosure of administrative activity.
2. The administrative acts of the bodies and institutions of the Public Administration, namely the regulations, rules and procedural rules, are published in such a way that natural and legal persons can know in advance, the legal conditions in which they can carry out their interests and exercise Their rights.
3. The bodies of the Public Administration are subject to periodic inspection and audit by the competent entities.

Article 13 (Principle of Public Administration responsibility)

The Public Administration responds by the conduct of the agents of its bodies and institutions that result in damages to third parties, in the same terms of the civil responsibility of the State, without prejudice of their right of return, according to the provisions of the civil code;

Law 14/2012 - General Statute for Officials and State Agents

Article 5 (Legality)

1. In their work, state employees and agents obey the Constitution of the Republic and other legislation.
2. In the exercise of their functions in the Public Administration, officials and other agents of the State are exclusively at the service of the public interest, linked to the Constitution of the Republic and to the laws.
3. State officials and agents must have a responsible and ethical-professional conduct, act with legality and justice respecting the legally protected rights, freedoms and interests of citizens and other public or private persons.

Article 38 (General duties of officials and agents of the State)

The general duties of state officials and agents are:

1. Respect the Constitution and other laws and bodies of state power.
2. Actively participate in the building, development, consolidation and defence of the democratic rule of law and in the improvement of the country.
3. Dedicate themselves to the study and application of laws and other decisions of the bodies of State power.
4. Defend state ownership and ensure its conservation.
5. To assume a conscious discipline in order to contribute to the prestige of the function of which it is invested and the strengthening of national unity.
6. Respect international relations established by the State and contribute to its development.
7. Promote citizen's trust in Public Administration and its justice, legality and impartiality.

Article 39 (Special duties of officials and agents of the State)

Special duties of state officials and agents are:

1. Comply with laws, regulations, orders and superior instructions;
2. Exactly, promptly and faithfully comply with the orders and legal instructions of their superiors regarding the service.
3. Respect hierarchical superiors on and off the job.
4. To dedicate to the service his intelligence the aptitude, exercising with competency, self-denial, zeal and assiduity and efficiently the functions in his charge, without harming or in any way hampering the process and pace of work, productivity and relations of work.
5. To carry out the functions in any place that is designated to him.
6. Do not present to the service in a state of intoxication and / or under the effect of psychotropic and hallucinogenic substances.
7. To present to the service in all places where he / she must attend for reasons of service, with punctuality, correction, cleanliness and prudence and in physical and mental conditions that allows.
8. To account for their work, analysing it critically and developing criticism and self-criticism.
9. Keep secrecy about service matters even after the termination of duties.
10. Do not unduly recurs, delay or omit the resolution of a matter that should be known or the fulfilment of an act that was due to perform by virtue of his position.
11. Ensure the conservation and maintenance of the State's assets entrusted to it.
12. To pronounce on deficiencies and errors in the work and to inform about them to the respective hierarchical superior.
13. To keep and keep the documentation and archives according to the established regimes, sending to the competent entities the documentation of historical value.
14. Do not leave without higher authorization for the foreigner and outside the province, except during the annual leave period and rest days.
15. To concur with the official acts and solemnities to be called by the superior authorities.
16. To remain in the exercise of his functions, even if he has resigned his position, until his request is decided.
17. Give an example of compliance with current institutions and respect for their symbols and representative authorities.
18. Maintain harmonious working relations with all employees, creating an environment of esteem and mutual respect in the workplace, without breaking the rigor, discipline and requirement in the fulfilment of the functional obligations.
19. Do not assault, abuse or disrespect any citizen or other official at the service premises or because of it.
20. Tightly combat manifestations of racism, tribalism, regionalism, discrimination based on sex, party affiliation, departmentalism and other forms of division.
21. Completely fulfil the mission entrusted in a foreign country and return immediately after its fulfilment.
22. Inform the leaders whenever they are aware of the practice or attempt to commit an act contrary to the Constitution, laws, state decisions, regulations and instructions.

23. To adopt a correct and exemplary behaviour in public, personal and family life in order to always respect the dignity of the function and its quality of citizen.
24. Use with correction: the uniform provided by law, when applicable.
25. Do not practice nepotism in admission, movement, promotion and promotion of civil servants.
26. Do not practice administrative acts that privilege interests outside the State to the detriment of the efficiency of services.
27. Do not use the functions it exercises for its own benefit or to the detriment of third parties, namely not accept as a consequence of their work any offers or payments, nor require or accept promise of offers or payments.
28. Do not move to another country when performing mission abroad without express higher authorization.
29. Do not perform another function or paid activity without prior authorization.
30. To promote the confidence of the citizen in the Public Administration, taking care of it on time and with exemption.
31. Do not harass materially, morally or sexually in or outside the workplace, as long as it interferes with job stability or career progression.
32. Require periodic and regular counting of the period of service rendered to the State for the purpose of retirement.

(b) Observations on the implementation of the article

The Public Probity Law is an instrument aimed at promoting integrity, honesty and responsibility among public officials in Mozambique. It establishes duties and a set of ethical standards for public officials, and, among others, regulates asset declarations, conflict of interest, probation period, secondary activities, gifts, outside employment. It also establishes the Central Commission of Public Ethics and sectoral public ethics committees, as the main bodies to oversee the application of the law (art. 50-51).

Paragraph 2 and 3 of article 8

2. *In particular, each State Party shall endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.*
3. *For the purposes of implementing the provisions of this article, each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, take note of the relevant initiatives of regional, interregional and multilateral organizations, such as the International Code of Conduct for Public Officials contained in the annex to General Assembly resolution 51/59 of 12 December 1996.*

(a) Summary of information relevant to reviewing the implementation of the article

Please refer to the response under paragraph 1.

(b) Observations on the implementation of the article

The Public Probity Law effectively serves as a code of conduct for public officials. No information has been provided on whether Mozambique took note of the relevant initiatives of regional, interregional and multilateral organizations in the preparation of the Law. Therefore, **it is recommended that Mozambique take into consideration existing regional and international initiatives in the area of codes of conduct for public officials when amending the LPP.**

Paragraph 4 of article 8

4. Each State Party shall also consider, in accordance with the fundamental principles of its domestic law, establishing measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions.

(a) Summary of information relevant to reviewing the implementation of the article

The Law 6/2004 which creates the GCCC establishes a mechanism for anonymous reports, applicable not only to public officials but also to the public in general.

Law no 6/2004 on GCCC

Article 12 (Initiative of procedure)

1. Any person may request the competent administrative, police and prosecutor's office to initiate an investigation to ascertain facts relating to the crimes provided for in this Law.
2. The complaint or denunciation is written or reduced in term and signed, or in the form of anonymity and contains the information about the facts, its authorship and the evidence of which it has knowledge.
3. The complaint or denunciation shall be dismissed, in a reasoned order, if it does not observe the provisions of the preceding paragraph, without prejudice to the right of the Public Prosecutor to take other initiatives for the investigation and prosecution of the cases denounced.
4. The Attorney General's Office may order the investigation of crimes provided for in this Law, provided that it is aware of any other mechanism.

Article 13 (Protection of whistleblower)

1. No complainant or whistleblower may be subject to disciplinary action or impaired in his professional career or in any way, be prosecuted as a result of the complaint or reports of crimes of corruption.
2. Anyone who violates the provisions of the previous number will be punished with a prison term of up to six months and a month of fine.

In addition, public officials have a duty to report cases of corruption that they have knowledge of in accordance with article 39, paragraph 22 of Law 14/2009, approving the EGFAE. Failure to comply with this duty constitutes a disciplinary offence punishable by a penalty under the terms of paragraph f) of paragraph 3 of article 86 of the same law. Sanctions – pursuant to article 86/3 of the GSOSA.

Law 14/2009 General Statute for Officials and State Agents

Article 39 (Special duties of officials and agents of the State)

Special duties of state officials and agents are:

22. Inform the leaders whenever they are aware of the practice or attempted practice of an act contrary to the Constitution, laws, state decisions, regulations and instructions.

Article 43 (Orders and legal instructions)

1. The duty of obedience does not include the obligation to comply with legal orders and instructions.

2. Legal orders or instructions shall be those which:

- A) Directly offend the Constitution;
- B) They are manifestly contrary to the law;
- C) They come from an entity with no competency to give them;
- D) Implicit in disregard of legal formality.

3. Whenever the official or agent of the State considers that a certain order or instruction is illegal, or that its compliance may result in danger of life or damages, he must immediately give written notice to his superior, under penalty of being jointly and severally liable.

4. In cases of maintenance of the order, this is reduced to writing.

Article 86 (Relegation)

1. The reprimand penalty shall apply to an official who is found to be unfit for work resulting in damage to the State or to third parties and in cases of breach of fundamental professional duties and gross negligence.

2. It is considered a professional incompetency, faulty to perform functions inefficiently, with the loss or creation of obstacles to the process and pace of work, to efficiency and working relationships.

3. It shall apply in particular to an official who:

(...) F) fails to inform the leaders of the practice or attempt to commit any act contrary to the Constitution or principles defined by the State of which it is aware.

Moreover, the Law in 15/2012 was adopted recently, establishing the mechanisms to protect the rights and interests of victims, complainants, witnesses, respondents and experts, which also applies to public officials and the public in general.

Law No. 15/2012 on the protection of witnesses, especially with regard to whistle-blower protection mechanisms for public officials.

Article 1 (Definitions)

For the purposes of this Law, it is considered:

Victims, complainants, witnesses, declarants or experts who are in a situation of risk or danger as a result of their direct or indirect intervention in the investigation of a crime or in producing evidence of the facts process;

B) teleconferencing, procedure for taking and recording statements or statements without the physical presence of the person who deposes or declares, through the use of technical means of remote transmission, in real time, both sound and image;

C) elements of identification, any elements which, individually or in combination with others, make it possible to individualize a person, distinguishing it from others;

D) domicile, place of residence or place chosen for the beneficiary subject to be contacted;

E) advance production of evidence, a measure designed to ensure the provision of testimony or statements, with the potential to influence the decision on the facts, at a procedural stage prior to that in which they should normally be rendered.

Article 2 (Subject matter)

1. The present Law regulates the protection of the rights and legitimate interests of victims, whistleblowers, witnesses, witnesses or experts and subjects especially vulnerable in criminal proceedings, when their life, physical or mental integrity, personal or property freedom are endangered by the contribution they have given or are willing to give to the criminal investigation or production of evidence in court.

2, Whenever. The specific protection measures decreed under this Law may be extended to family members and other persons living in dependence on the beneficiary subjects.

Article 3 (Scope)

The special protection measures provided for in this Law may be enacted, subject to the provisions of article 5, in any proceeding for an offense punishable by a penalty of more than two years' imprisonment.

Article 4 (Legitimacy)

The application of the special protection measures may be requested by any of the beneficiary subjects or ordered by the Attorney General's Office or by the Judge, according to the procedural stage in which the proceedings are filed.

Decree Law 35.007 of 1945 (Police Act)

Article 7

The report to the Public attorney is mandatory for public officials, as well as the infractions that they become aware in the exercise or because of the exercise of their functions.

(b) Observations on the implementation of the article

The Law 6/2004 on the GCCC provides for an anonymous reporting procedure applicable not only for public officials but also to the public in general (art. 12 and 13). The Law explicitly provides that no reporting person may be prosecuted, subject to disciplinary action or impaired in his or her professional careers as a result of the complaint. Law 15/2012 provides for the protection of the rights and interests of victims, witnesses and reporting persons.

In addition, public officials have a duty to report acts against the constitution and laws, including corruption, to their superiors (art. 39 and 43 GSOSA). Failure to comply constitutes a disciplinary offence (art. 86 GSOSA).

With regard to the anonymous reporting line, no information has been provided on how it operates in practice, how many cases have been recorded and what follow-up action has been triggered by the reports. As such, the effectiveness of the procedure could not be assessed.

Similarly, while the GSOSA provides for the duty of public officials to report cases of corruption to their superiors, it is unclear whether public officials report corruption in practice, what the superiors do with the information provided and what action is taken. In addition, it is unclear how

public officials are protected from retaliation and how confidentiality is ensured. No information has been provided as to how these provisions are articulated in the institutional and administrative mechanisms, including policies and practices in public entities. The role of the ethics committees in this regard is also unclear.

Information on how many communications have been submitted using either of the procedures and how they have been dealt with was not provided.

Although some systems are in place allowing public officials to report cases of corruption, they do not seem to generate the desired results in practice. **It is recommended that Mozambique ensure the effectiveness of the mechanism for public officials to report corruption, including through streamlining the existing procedures, providing alternative confidential reporting channels, and providing guidance to public officials.**

Paragraph 5 of article 8

5. Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

(a) Summary of information relevant to reviewing the implementation of the article

ASSET DECLARATIONS

The LPP, complemented by the GSOSA, and the Law 6/2004 regulates the issue of asset declarations in Mozambique.

Law on Public Probity

Article 20 (Duty to declare property)

The public official upon assuming office shall declare, under oath, his income and property interests, prior to his inauguration, as well as his modifications during the term of office.

Article 57 (Declaration of equity)

The exercise of public functions is subject to the declaration of the rights, income, titles, shares, or any other kind of assets and values, located in the country or abroad, which constitute the private property of the official.

Article 58 (Entities subject to declaration of assets)

The following entities are subject to the declaration of income and assets:

- A) holders of political office provided by election or appointment;
- B) judges and magistrates of the Public Prosecution Service, without exception;
- C) managers and heads of the Central and Local Administration of the State;
- D) members of the Board of Directors of the Bank of Mozambique;
- E) administrators of the Bank of Mozambique;
- F) management boards of the Tax Authority;

G) managers of public assets assigned to the Armed Forces and the Police, regardless of their quality;

H) managers and managers of public institutes, public funds or foundations, public companies and public managers of companies owned by the State;

I) members of the Provincial Assembly.

Article 59 (Content of the declaration)

1. The declaration, in addition to the personal identification data, must contain in a detailed manner all the elements that allow a thorough evaluation of the assets and income of the declarant and his or her spouse or person living with him or her in a situation analogous to that of a spouse, children under age and legal dependents, and is organized in two parts, according to the following numbers.

2. Part I of the declaration contains the personal identification data of the declarant and his or her spouse or person living with him / her in a situation similar to that of spouse, minor children and legal dependents.

3. Part II contains the elements, ordered by major headings, that allow a rigorous assessment of the assets and income of the declarant and his or her spouse, or person living with him or her, minor children and legal dependents, at the time when it is provided that the declaration, existing in the country or abroad, namely the following:

A) real estate assets. Quotas, shares or other corporate shares of capital of civil or commercial companies, rights in vessels, aircraft or motor vehicles, rights of use and use of land, more than one hectare, securities portfolios, bank accounts, and provided that it exceeds 100 minimum civil service salaries, current bank accounts and credit rights, in Mozambique or abroad;

B) a description of the respective liabilities, namely in relation to the State, credit institutions and any companies in Mozambique or abroad;

C) the mention of positions held or exercised in the two years preceding the declaration. In public or private companies and in national or international organizations in Mozambique or abroad;

D) the indication of the gross taxable income, for the purposes of the Personal Income Tax, as well as of other income exempt or not subject to the same tax.

4. The declaration required under this Article shall be included. In addition to the assets of the spouses, or the person with whom the declarant lives as such, that of the minor or incapacitated children or other legal dependents.

5. The declaration covers the elements referred to in the preceding paragraphs, even if produced. Incorporated, received, exercised or rendered outside the country.

6. The elements referred to in the preceding paragraphs must be described in such a way as to clearly establish their nature. situation. Identification, source, amount, value, issuing entities, depositories, creditors or debtors, and other information that, in each case, may be relevant.

Article 60 (Form of declaration)

1. The declaration made on a model form attached to this Law shall be made on the honour of the declarant.

2. When both spouses or persons living in a situation analogous to that of spouses are obliged to submit a declaration, a single declaration may be given, in accordance with the previous numbers, signed by them.

Article 61 (Depositary institutions)

1. The depository of declarations of assets is the Attorney General's Office at all levels.
2. The Prosecutor General, the Deputy Prosecutor General, the Deputy Prosecutors and Public Prosecutors shall file their respective declarations of property in the Administrative Court.

Article 62 (Updating of the declaration)

1. The statement of assets and income shall be updated annually and if no update is made, this shall be stated.
2. The public servant shall present, within the same period, an updated statement, whenever its renewal, re-election, or renewal of the bond that requires the declaration takes place.
3. A final, up-to-date declaration reflecting the development of assets in the course of the mandate to which it relates shall be submitted within 60 days of the termination of the tasks which led to the submission of the initial declaration.

Article 63 (Advocation, inspection and instruction)

1. The representative of the Attorney General's Office with the depository entity, supervises and evaluates the entire system of declaration of wealth and income, having free access to them.
2. Public entities may whenever they deem it necessary, request the Attorney General's Office or the Provincial Prosecutor's Office, as the case may be, to carry out a specific inspection or evaluation regarding the declaration of assets of any public servant in the respective sector or area of jurisdiction.
3. Whenever the entities indicated in the previous number consider that there are enough indications of crime or violation of this Law, they establish the competent process;

Article 64 (Reception and Verification Commission)

1. In each of the depository entities referred to in Article 61, there is a Reception and Verification Commission in charge of receiving the declarations and verifying their compliance with the pertinent provisions of this Law.
2. In the light of the verification, the Commission shall issue notifications to the declarants for correction of errors, irregularities or omissions and authenticate the declarations in own process, organized for each declarant.
3. Each Reception and Verification Commission shall comprise four suitably qualified staff members and shall be presided over by a fifth of a higher rank.

Article 65 (Registration)

1. The presentation of the declarations shall be recorded in the proper book, containing the opening and closing terms, signed by the Chairman of the Reception and Verification Commission, which shall list all its duly numbered sheets.
2. The following information shall be entered in the register:
 - a) The name of the declarant, or declarants, the entity in which he or she performs functions and the indication of the position or function he exercises;
 - b) the date of submission of the declaration;
 - c) the number of the respective case.
3. The register shall include:
 - a) the identification note of the updates of the declaration;

b) the identification note of decisions issued on omission, irregularity. Inaccuracy or inaccuracy of the statements. As well as any other relevant fact;

c) the note of the request for access, consultation made, with the identification of the consultant and reason for the consultation.

4. The Receiving and Verification Commission shall keep a name file on the individual files properly up to date so that they can be easily located.

5. In each depository entity, the members of the Reception and Verification Commission are the only ones to have internal access to the processes, without. Prejudice to the rules of confidentiality established in this Law.

Article 66 (Legitimacy for access)

In addition to the members of the Reception and Verification Commission, and without prejudice to the principle of confidentiality established in this Law, there is legitimacy for free access to the declaration processes:

a) The declarant;

b) Judicial authorities;

c) The Central and Provincial Anti-Corruption Office;

d) Criminal investigation bodies and authorities;

e) Any natural or legal person, pursuant to articles 68 and following of this Law.

Article 67 (Public consultation and dissemination)

1. Access to the register book and to Part I of the declarations is free.

2. Any person who justifies having relevant interest in the respective knowledge may request the depository entities, consult Part II of the declaration of assets deposited under this Law.

3. The request referred to in the preceding paragraph, and when it is a request from any of the entities indicated in item e) of the previous article, will be made known to the declarant so that, wanting to contest the request for access, within three days.

4. The Reception and Verification Commission shall, within a period of three days, submit the request, duly informed, to the head of the depository institution that decides, within the same period, and notify the applicant and the declarant of the decision taken.

5. In case of rejection, the petitioner may appeal the decision to the Constitutional Council, which shall decide in the last instance.

Article 68 (Form of access)

Access to the declarations, the logbook and the processes referred to in the previous articles, is as follows:

a) By direct consultation at the premises of the depository entities, with the necessary reservation, and during working hours;

b) In duly justified cases, through the passage of certified copies or copies of the elements that integrate them.

Article 69 (Confidentiality)

1. The content of Part II of the declarations shall not be divulged or disseminated.

2. The dissemination, disclosure or publication, in whole or in part, of the content of Part II of the declaration of property causes the offender to be punished with a penalty of three days to six months imprisonment, without prejudice to any compensation that may arise.

3. In the event that the person responsible for the publication referred to in the previous number is unaware, the director or the Chairman of the Board of Directors of the media body shall personally answer, pursuant to the same number.

4. The elements of the declaration obtained in violation of the provisions of article 68 do not provide evidence against the declarant, and the evidence obtained is null and void.

Article 70 (Violation of the access procedure)

Who, taking advantage of the functions or position that in any case exercises or holds, facilitate, allow or authorize access to the declarations of assets or to the respective processes, violating the legal conditions and procedures, shall be punished with the penalty of arrest from 1 month to 2 years and a corresponding fine. To two maturities.

Article 71 (Delivery of the declaration after the legal deadline)

Failure to deliver the declaration within the legal term shall be punished with a fine corresponding to twice the monthly remuneration of the holder of the public office and shall determine the suspension of payment of the remuneration until the fulfilment of the obligation to deliver the missing declaration.

Article 72 (Failure and Non-compliance)

1. When there is a non-delivery of the declaration or omission of elements that must be included, established in Articles 59 and 62 of this Law, the depositary entities notify the defaulting party within 10 days, to remedy the non-compliance.

2. Continuing to verify the non-compliance, and after the deadline referred to in the previous number, the depositary entity has to extract a certificate of this fact and sends it to the Public Prosecutor for criminal prosecution.

3. The persistence in the non-fulfilment of the obligation, after the expiry of the period established in n. 1, constitutes a crime of disobedience punishable by a penalty of dismissal, with the inability to assume office or function for five years.

Article 73 (Fraudulent filing of the declaration)

The fraudulent fulfilment of the declarations referred to in articles 59 and 62 or the fraudulent omission of data - which must appear in these statements, shall be punished with a penalty of dismissal, with the prohibition of assuming positions or functions for five years, without prejudice to civil and criminal liability.

Law 14/2009 General Statute for Officials and State Agents

Article 41 (Duties specific to the leaders)

(...) 2 The heads of State are subject to the following specific duties

(...) l) to render accounts of their work, according to the law;

(...) n) present the declaration of its assets under the law.

Law 6/2004 on GCCC

Article 1 (Object)

The purpose of this law is to strengthen the existing legal framework to combat crimes of corruption and illicit economic participation.

Article 2 (Scope)

1. This Law shall apply to agents of the crimes referred to in article 1 who are directors, officials or employees of the State or local authorities, public enterprises, private companies in which they are owned by the State or concessionary companies of public services.
2. For the purposes of this law, anyone who exercises or participates in public functions or is treated as such, and for whom he is appointed or invested by direct effect of the law, by election or by determination, Competent authority.
3. The provisions of this Law apply to those who, even if they do not integrate any of the categories referred to in the previous number, induce or contribute to the practice of the crimes listed in article 1 or take advantage of them.

Article 4 (Declaration of assets)

1. The possession and exercise of public functions with decision-making powers in the State apparatus, in the municipal administration, in public enterprises and institutions, as well as the possession of State representatives in private enterprises owned by the State, shall be subject to the presentation of a declaration by the State. Assets and values that make up the assets of the employee, in order to be deposited in the service's own file.
2. The statement shall include real estate, movable and movable assets, money, securities and shares, located in the country or abroad, and specific laws and regulations may extend the scope of the declaration to the assets of spouses or companions, children and other persons living under the economic dependence of the declarant, excluding only the objects and utensils of domestic use from the declarations of goods.
3. The declaration of assets is subject to the annual update and on the date the server leaves the exercise of the position, mandate, job or function.
4. The declaration referred to in paragraph 1 may be requested at any time for disciplinary or criminal proceedings.

OUTSIDE ACTIVITIES AND EMPLOYMENT

Law on Public Probity

Article 25 (Prohibitions during the exercise of the office)

During the exercise of the function, it is prohibited to the public servant:

[...]

- g) To carry out work and activities, whether remunerated or not, outside their public function, which are in conflict with their duties and responsibilities or whose exercise may reasonably give rise to doubts about impartiality in decision-making, unless exceptions are allowed by law;

Article 44 (Prevention of Illegitimate Use)

Without prejudice to the limitations imposed on former civil servants and other cases provided for in this Law or other legislation, no public servant may, during the period in which he maintains the bond with any public entity:

- a) make private speeches, statements, publish books or writing on matters relating to the institution in which he or she serves, without mentioning that his or her ideas do not necessarily represent those of the entity for which he or she works;
- b) make the endorsement or publicity for the benefit of a product, service or companies. Including for the benefit of family members and friends or for the person with whom the agent has associative relationships in civic organizations, except where such circumstances arise from the nature of the agent's duties;
- c) create the public impression that the institution in which it serves approves or endorses its private activities or citizenship interventions;
- d) make use of official paper or make mention of their public office in letters of recommendation for employment in favour of third parties, except in cases where the beneficiaries have had professional relations in the public entity or such application is intended to fill vacancies in public institutions;
- e) make use of his public office to induce any other citizen, including his subordinates, to grant him any financial or other benefit for himself or for a third party with whom he has relations.

Article 45 (Duties before leaving public office)

While maintaining a bond with any public entity, even if it is in the process of untying, the public servant must:

- a) prevent their post-employment life plans or job vacancies from affecting their integrity;
- b) inform the Ethics Committee or, in the absence of the Ethics Committee in writing, any hierarchical superior of any offer of employment capable of placing him in a situation of potential conflict of interest before and after termination of service;

Article 46 (Specific duties of the former public servant)

1. After the cessation of public functions. The public servant is at all times prohibited from:

- a) act in such a way as to obtain undue advantages for himself or others from his former institution;
- b) to participate in any negotiation, contractual or otherwise, with the public institution in which it serves in favour of itself or on behalf of third parties, provided that it has intervened as an official, expert or adviser;
- c) make use, for the own benefit or of a third party, of classified information relating to the entity for which he / she has worked or that during the period of service has had relations of subordination or guardianship;

2. In the period of 2 years, counted from the date of cessation of public functions, for whatever reason, the former public servant is prohibited from:

- a) provide any type of service to the individual or legal entity with whom he has established a relevant relationship due to his previous position or employment;
- b) to accept a position in the corporate bodies, as a contractor or provider of liberal service with a natural or legal person whose object or activity is related to his previous position or employment;
- c) to do business for himself or business intermediation in favour of third parties with the public entity in which he rendered services.

Law 14/2009 General Statute for Officials and State Agents

Article 7 (Incompatibilities)

The status of civil servant and state agent is incompatible with the exercise of other professional activities, namely:

- a) Those declared incompatible by law;
- b) Those that have a schedule coinciding with that of the Public Administration;
- c) Those that could compromise the public interest or the impartiality required in the exercise of public functions.

Article 8 (Exclusivity)

1. The exercise of public functions shall comply with the principle of exclusivity.
2. The simultaneous occupation of more than one place of the personnel of the bodies or institutions of the State by the same official is allowed only when founded in the public interest and authorized by a competent leader, one of the following being verified:
 - a) Inertia of functions;
 - b) Temporary and compatible activity;
 - c) Functions of teaching, research or cultural production, of compatible or compensable hours.
3. The exercise of other professional activities remunerated by officials depends on the express authorization of the competent leader, at the request of the interested party.

Article 39 (Special duties of officials and agents of the State)

Special duties of state officials and agents are:

- (...) 29. Not to exercise another function or paid activity without prior authorization.

DECLARATION OF GIFTS AND BENEFITS

Public Probity Law

Article 25 (Prohibitions during the exercise of the office)

During the exercise of the function, it is prohibited to the public servant:

[...]

- f) To accept payment or fees for speech, conference or similar activity for which you have been invited to participate as a public agent;
- h) To collect or request, directly or indirectly, contributions from other public services for any purpose;
- i) To collect or solicit, directly or indirectly, in the hours of work, contributions or handouts of other benefactions for the purpose of giving or offering it to a superior;
- k) To request foreign governments or private companies, special collaboration for travel, scholarships, lodging, cash offers or other similar donations, for their own benefit, their spouse, brother, ascendant and descendants, in any degree of the straight line or to a third party, except when such request arises from the exercise of the function or position;

Article 26 (Relationship with third parties)

Without prejudice to what is provided in Chapter II on the System of Conflicts of Interest, in its relationship with third parties or with customers or users of the public sector, it is prohibited to public servants:

- a) To carry out or sponsor for third parties, administrative procedures or management that are or are not in their charge, outside the normal cases of the provision of the service or activity, so that their action implies discrimination in favour of third parties;
- b) Direct, administer, sponsor, represent or provide services, whether remunerated or not, to individuals or entities that manage or exploit concessions or privileges of the administration or that have been its suppliers or contractors;
- c) Receive, directly or indirectly, benefits arising from contracts, concessions or franchises, executed or granted by the administration;
- d) Requesting or accepting, directly or through an interposed person, gifts, benefits, favours, gratuities or benefits of any kind, from persons seeking official actions due to the benefit granted, which is presumed, when the benefit occurs due to the position held, in the terms established in chapter II;**
- e) Request special services or resources for the institution, when they compromise or otherwise condition the decision-making;
- f) Maintain bonds that signify benefits and obligations with entities directly supervised by the official entity in which it provides services, until one year after the termination of the employment relationship;
- g) To carry out or sponsor for third parties, procedures or administrative management directly under their charge, until one year after the termination of the employment relationship.

Article 40 (Illegal Enrichment)

1. It is an act of public impropriety leading to unlawful enrichment to obtain any type of improper patrimonial advantage, by virtue of the position, mandate, function, activity or employment of the public servant.
2. For the purposes of the previous number, the following acts shall be considered to be publicly improper:
 - a) to receive, for himself or for others, money, movable or immovable property, or any other direct or indirect economic advantage, as a commission, percentage, gratuity or gift of any interest, whether direct or indirect, that may be reached or supported by action or omission arising from the attributions of the public servant;
 - b) to obtain an economic advantage, directly or indirectly, to facilitate the acquisition, exchange or lease of movable or immovable property, or the contracting of services by the public entity for a price higher than the market value;
 - c) to obtain an economic advantage, directly or indirectly, to facilitate the alienation, exchange or leasing of public goods or the provision of services by the public entity at a price lower than the market value;
 - d) to use in vehicles or machinery, equipment, or equipment of any nature owned or available to a public entity, as well as the work of public servants, employees or third parties contracted by a public entity;

- e) to obtain an economic advantage of any kind, direct or indirect, to tolerate the exploitation or practice of games of chance, pimping, drug trafficking, smuggling, usury or any other illegal activity or accept the promise of such an advantage;
- f) to obtain an economic advantage of any kind, direct or indirect. To make a false statement about measurement or evaluation in public works or any other service or on quantity, weight, measure, quality or characteristic of goods or goods supplied to any public entity;
- g) to acquire for themselves or for others, in the exercise of their mandate, position, employment or public function, goods of any nature whose value is disproportionate to the evolution of the assets or income of the public servant;
- h) to accept employment or to carry out consultancy work for an individual or legal entity that has an interest that may be affected or protected by action or omission arising from the duties of the public agent during the activity;
- i) to obtain an economic advantage of any nature, directly or indirectly, to omit grandchild of office, order or declaration to which he is bound:
- j) to integrate, in its assets, unlawfully, assets, rents, funds or securities belonging to the assets of a public entity;
- k) to use, for their own benefit, assets, incomes, funds or amounts that are part of the assets of a public entity;
- l) to derive economic gain from intermediating the availability or application of public funds of any nature,

Article 41 (Offers or gratuities not allowed)

1. The public servant shall not, by performing his duties, demand or receive benefits and offers, whether directly or through an intermediary, of natural or legal entities, under Mozambican or foreign law.
2. All bids worth more than one third of the monthly salary of the holder of political office or public servant paid by the public entity for which he provides services are included in the prohibition established in the preceding paragraph, namely in:
 - a) National or foreign currency;
 - b) Movable property of any nature, such as furniture, appliances, jewellery and other artefacts;
 - c) Immovable property or any repair services on the premises of the public agent, as well as his lease;
 - d) Vehicles, boats or any means of transport;
 - e) Paid vacation;
 - f) Any other types of offers or advantages.
3. It is still forbidden for the public servant to receive any type of offer, regardless of its value, from anyone who has an interest in a decision that he, the agent, will take on a certain subject.
4. The provisions of this article shall also apply to cases where the public servant is offered hospitality, courtesy or any type of offer.
5. Offers which, by their nature and pecuniary value, are liable to jeopardize the exercise of their functions with the required degree of accuracy and are detrimental to the good image of the State.

6. In case of doubt as to whether a particular offer, gratuity or hospitality constitutes a circumstance of conflict of interest, the public servant must inform the Ethics Committee of the sector or, failing that, the hierarchical superior.

Article 42 (Admissible offers and gratuities)

The public servant is allowed to receive offers in the following situations:

- a) When they are intended to be integrated into the State assets or any public entity with autonomy, without prejudice to the fact that, if such offers are of more than 200 minimum wages, they do not occur in the 365 days before or after those within of which the bodies of the beneficiary entity must perform some act that produces effects in the sphere of who offers them;
- b) Offers that are part of the protocolary practice and are not harmful to the good image of the State and other public persons;
- c) Gifts on the occasion of holidays, namely anniversary, marriage, religious holidays, provided they do not exceed the limits established in this Law.

(b) Observations on the implementation of the article

Mozambique has introduced an asset declaration system. Certain categories of public officials (judges, parliamentarians, heads of central and local administration), as listed in art. 58 of LPP, are subject to yearly compulsory asset declarations (art. 20, 57-59, 62). The asset declarations concern all income and property interests as well as any rights, shares or other values within or outside of Mozambique (art. 57), and cover also family members (art. 59 paras. 1 and 4). Asset declarations are submitted as hard copies to the Attorney General's Office (AGO), who is equipped with depository and supervisory functions (art. 61-63). The only exception concerns prosecutors who file their declarations in the Administrative Court (AC) (art. 61(2)). Upon request of any public entities, the AGO and AC may further examine and evaluate the asset declarations (art. 63). These functions are carried out by reception and verification commissions (RVCs), which have been established within both bodies (art. 64) and which issue notifications to declarants regarding errors, irregularities and omissions (art. 64). Anyone with justified interest can request access to asset declarations; however, the content of asset declarations may not be further disseminated or published (art. 66-69). Denial of access can be appealed to the Constitutional Council (art. 67). Non-compliance of public officials with their declaring obligation or fraudulent filing of declarations is punishable by fine or dismissal (art. 71-73).

The verification commissions within the AGO and AC examine asset declarations upon request of public entities, and the examination therefore appears to take place only on an ad-hoc basis. No mechanism is in place to systematically carry out the verification and monitoring of the content of declarations. In addition, no information was provided on statistics regarding the level of compliance with obligation to submit asset declarations or number of cases in which incompatibilities were identified and examples of measures that were taken accordingly. **As such, Mozambique is recommended to strengthen the asset declaration system, including through systematizing the verification process (e.g. introducing random or routine verifications), computerizing the system, raising awareness among public officials, effectively applying penalties for non-compliance, and assessing whether the current scope of the obligation covers all positions vulnerable to corruption.**

Public officials may not engage in outside work and activities that could lead to conflict of interest (art. 25 LPP, art 7-8 GSOSA). Public officials have certain duties before or after leaving public office, such as the obligation to inform the PEC or superiors of any employment offer that

could give rise to conflict of interest (art. 45) or to refrain from certain activities for the cooling-off period of two years (art. 46). While Mozambique provided information on the legal basis for the system regulating the outside interests and employment of public officials, no concrete cases of implementation have been referred to and it is unclear if the system is enforced in practice. **As such, Mozambique is recommended to continue ensuring that the rules on outside activities and employment are well known to public officials and enforced in practice and to ensure the existence and effectiveness of work of PECs in all public bodies.**

Public officials are prohibited from requesting or accepting any gifts or benefits of any kind from persons seeking their officials actions (art. 26,40 and 41). While the threshold is set at one third of monthly salary (art. 41 para. 2), there is a zero tolerance for gifts from persons who have interest in public officials' decisions (art. 41 para 3.). In case of doubt, public officials must inform the PEC or their superiors of the gifts received (art. 41 para. 6). The only admissible gifts are listed in art. 42 LPP and include gifts of protocolary practice or given on special occasions, such as birthday or marriage, provided that they do not exceed the legal limit of one third of monthly salary (art. 42).

The LPP prohibits active and passive bribery and illicit enrichment of public officials (art. 26, 40, 41).

The review team noted that while public officials are prohibited from requesting or accepting gifts, no system is in place to declare gifts -public officials only inform the PEC or their superiors in case they are in doubt whether the gift is acceptable. The review team also noted that the current approach to allow gifts of a value of up to one third of monthly salary with the exception when the gift giver has interest in the official's decisions can be problematic – not only because one third of a salary appears to be very high, but also because it is left up to the officials to decide whether a person has interest in their decision. Furthermore, no information on the number of declarations made to PEC and whether the declarations were verified in any way was provided to the reviewers. **It is therefore recommended that Mozambique consider introducing an obligation for public officials to declare gifts, adopting clear guidelines and lowering the current threshold for acceptable gifts.**

Paragraph 6 of article 8

6. Each State Party shall consider taking, in accordance with the fundamental principles of its domestic law, disciplinary or other measures against public officials who violate the codes or standards established in accordance with this article.

(a) Summary of information relevant to reviewing the implementation of the article

The LPP sets out the disciplinary sanctions for public officials who are in breach of their duties set out by this Law. The EGFAE and the Law 6/2004 on Fight against Corruption are also applicable.

Public Probity Law

CHAPTER IV - Sanctions I

Article 70 (Violation of the access procedure)

Who, taking advantage of the functions or position that in any case exercises or holds, facilitate, allow or authorize access to the declarations of assets or to the respective processes, violating the

legal conditions and procedures, shall be punished with the penalty of arrest from 1 month to 2 years and a corresponding fine. To two maturities.

Article 71 (Delivery of the declaration after the legal deadline)

Failure to deliver the declaration within the legal term shall be punished with a fine corresponding to twice the monthly remuneration of the holder of the public office and shall determine the suspension of payment of the remuneration until the fulfilment of the obligation to deliver the missing declaration.

Article 72 (Failure and Non-compliance)

1. When there is a non-delivery of the declaration or omission of elements that must be included, established in articles 59 and 62 of this Law, the depositary entities notify the defaulting party within 10 days, to remedy the non-compliance.

2. Continuing to verify the non-compliance, and after the deadline referred to in the previous number, the depositary entity has to extract a certificate of this fact and sends it to the Public Prosecutor for criminal prosecution.

3. The persistence in the breach of the obligation, after the expiration of the period established in paragraph 1, constitutes a crime of disobedience punishable by a penalty of dismissal, with the inhibition of assuming positions or functions for five years.

Article 73 (Fraudulent filing of the declaration)

The fraudulent fulfilment of the declarations referred to in articles 59 and 62 or the fraudulent omission of data - which must appear in these statements, shall be punished with a penalty of dismissal, with the prohibition of assuming positions or functions for five years, without prejudice to civil and criminal liability.

Article 74 (Prevarication)

A public servant who, against what is legally constituted, conducts or decides a process in which he intervenes, in the exercise of his functions, with the intention of harming or benefiting someone, shall be punished with imprisonment from six months to two years.

Article 75 (Denial of disciplinary power)

A civil servant who, in the performance of his duties, refuses to exercise his disciplinary power, in accordance with his powers, is dismissed from office and a corresponding fine is imposed on him.

Article 76 (Non-compliance or refusal to execute a Judicial decision)

A public servant who, in the performance of his or her duties, does not comply with or oppose the execution of a final judicial decision, which is incumbent upon him, shall be punished with imprisonment and a corresponding fine.

Article 77 (Violation of rules implementing the plan and budget)

The public servant who, by virtue of his office, is responsible for complying with the norms of execution of the plan or the budget, and voluntarily violates them is punished with imprisonment, when;

- a) incur charges not permitted by law;
- b) authorize or promote treasury operations or budgetary changes prohibited by law;
- c) give public money a destination other than the one to which it is legally affected.

Article 78 (Unexplained enrichment)

A public servant who, in the exercise of his or her functions, taking advantage of the error of another person, receives, for himself or for third parties, fees, emoluments or other amounts not due or greater than those owed, shall be punished according to the amount wrongly received, Under the terms of criminal law.

Article 79 (Use of force against the law)

The holder of a position of responsibility who, being competent by virtue of his functions to request or order the employment of public forces, request or order such employment to prevent the execution of any law, court order of justice or order of public authority is punished tom Penalty of imprisonment.

Article 80 (Abuse of power)

The holder of a position of responsibility who, abusing the powers conferred by law or violating the duties inherent to the functions or for any fraud obtains, for himself or for third parties, an illegitimate benefit or causes damage to a public or private entity is punished by arrest and a corresponding fine, if a more serious penalty is not due by virtue of another legal provision.

Article 82 (Civil liability)

1. The State and other public legal persons, through their bodies or services to which the public servant is bound, shall be jointly and severally liable with the latter for losses and damages caused to third parties.
2. Public legal persons shall enjoy the right of recourse against the public servant for the indemnities paid under the terms of the preceding paragraph.
3. The acquittal by the criminal court does not extinguish the obligation of compensation, which can be sought in a civil court.

Article 86 (Civil liability)

1. In cases where the breach of conflict of interest rules results in damages for the public entity or for third parties, the agent of the state that gave them cause is liable for non-contractual civil liability.
2. The provisions of the preceding paragraph do not exclude joint and several liability of the State and its right of return.

Article 87 (Disciplinary sanctions)

Without prejudice to the application of other types of disciplinary sanctions, a violation of the rules on conflicts of interest shall constitute a disciplinary offense against:

- a) practice of a procedure that violates the prestige and dignity of the function, if it is committed by a public servant who does not hold a managerial position, is sanctioned with the penalty of dismissal;
- b) practice of acts that are detrimental to the prestige or dignity of the State or of the public entity for which it provides services, if it is committed by a public servant who holds a leadership position and is punished with a penalty of expulsion.

Article 88 (Penal sanctions)

If acts committed by the public servant in violation of the conflict of interest rules constitute a crime, it shall be punished in accordance with the provisions of the Penal Code or specific legislation.

14/2009 General Statute for Officials and State Agents

Article 78 (General Principles)

1. The public official or agent of the state who does not comply or who fails to perform his duties, abuses his functions or in any way prejudices the Public Administration is subject to disciplinary procedure or the application of disciplinary measures, without prejudice to criminal or civil procedure.
2. The main purpose of the sanction is, in addition to the repression and containment of disciplinary infraction, the education of the official or agent of the State for a voluntary adherence to the discipline and for the increase of the responsibility in the performance of its function.
3. Failure to comply with the duties by fraudulent or guilty act or omission is punishable even if it has not resulted in loss to the service.

Article 81 (Types of disciplinary sanctions)

1. The disciplinary sanctions applicable to State officials and agents shall be as follows:
 - a) Warning;
 - b) Public rebuke;
 - c) Fine;
 - d) Relegation;
 - e) Resignation;
 - f) Expulsion;
2. It is not licit to apply any other disciplinary sanctions than those foreseen in the previous number.

Article 90 (Mitigating Circumstances)

1. The following are mitigating circumstances:
 - A. The spontaneous confession of the infraction;
 - B. The spontaneous repair of the damages caused;
 - C. The exemplary behaviour prior to the infraction;
 - D. The lack of wilful intent;
 - E. The provision of relevant services to the State;
 - F. The absence of publicity of the infraction;
 - G. The minute effects that the lack has produced;
 - H. All those that show diminished responsibility.
2. Whenever any of the mitigating factors listed above is fixed in a disciplinary proceeding, the lower penalty of that step or the lower penalty may be applied to the offender.

Article 91 (Aggravating circumstances)

1. Aggravating circumstances are:
 - A. The accumulation of infractions;
 - B. Recidivism;

C. Premeditation;

D. The effects of the infringement.

Section IV Disciplinary proceedings

Article 99 (Obligation of written procedure)

1. The application of a disciplinary sanction to an official or agent of the State shall be determined in a written disciplinary proceeding.
2. Sanctions of warning and public reprimand may not be subject to prosecution, but the hearing and defence of the accused may be promoted.
3. An oral or written request shall be served on the measures referred to in the previous number in the presence of at least one witness indicated by the defendant.
4. Wishing to submit its defence in writing, under the terms 2 and 3 of this article, the accused has a maximum period of forty-eight hours.

Article 100 (Beginning of disciplinary proceedings)

1. The process is initiated by order of the leader and as a result of participation or direct knowledge of the infraction.
2. Participations or verbal complaints shall be reduced to a written record by the official who receives them.
3. Whenever the participation or complaint presented is based on a disciplinary procedure, the officer must appoint an official of the same or higher rank as the defendant, who becomes an instructor of the case, and may appoint a clerk.
4. Whenever necessary to ascertain the truth the instructor may request any public services, administrative and police authorities, information and evidence material.

Article 102 (Form of procedure)

1. The disciplinary process is always brief and must be conducted in such a way as to lead to the speedy verification of material truth, using all means necessary for its ready conclusion.
2. Disciplinary proceedings shall be independent of criminal or civil proceedings for the purpose of disciplinary penalties.
3. Where acts contrary to the discipline practiced by the official or agent of the accused State constitute crimes or cause injury to the State or to third parties, copies of the file must be taken and sent to the competent authorities for the initiation of criminal or civil proceedings.

Article 111 (Completion of the procedure)

1. Upon completion of the instruction, the instructor shall immediately make the final, complete and concise report stating the actual existence of the infraction, its qualification and seriousness, as well as the sanction applicable and, if it concludes that the accusation is unfounded, propose filing of the proceeding and provide for criminal proceedings against the participant in case of bad faith litigation.
2. The decision-maker shall decide within 15 days.
3. The decision shall state the reasons on which it is based and shall always take account of the aggravating and mitigating factors laid down.
4. If the applicable sanction does not fall within its competency, it then refers the respective process to the competent officers, by hierarchical means.

Article 113 (Competency to apply the sanction)

1. All officers shall be competent to apply the penalties of public warning and rebuke to the officials subordinate to them.
2. The following shall be competent to apply the fine to the officials subordinate to them:
3. The following officers shall be competent to apply reprimand penalties to the official:
4. The penalties of dismissal and expulsion may only be applied by the directors who are competent to appoint, without prejudice to them being competent to apply all other disciplinary penalties.

Article 114 (Appeal)

1. The punitive decision may be appealed to the superior immediately superior to the one who punished, to file within a period of ten days, counted from the date of knowledge of the respective order, upon presentation of an application, which includes the allegations that substantiate the request (...)

Article 137 (Content of disciplinary sanctions)

1. Disciplinary penalties consist of the following:
 - a) Warning - criticism formally made to the offender by the respective hierarchical superior;
 - b) Public reprimand - criticism made to the offender by his superior in the presence of the officials or agents of the State of the service where the offender is affected;
 - c) Fine - a discount of an amount corresponding to the salary of the official or agent of the State for a minimum of 5 and a maximum of 90 days, graduated according to the seriousness of the infraction, which reverts to the state coffers. The discount in each month is made at the maturity of the offender, not being able to exceed in each month one-third of its due date;
 - d) Relegation - decrease to the lower class in the first step of the salary range for the period of 6 months to 2 years;
 - e) Dismissal - removal of the offender from the state apparatus, which may be readmitted after 4 years from the date of the punitive order, provided that it is proved cumulatively that through its behaviour is rehabilitated, reintegration is in the interest of the State, Vacancy in the establishment plan and budget allocation;
 - f) Expulsion - definitive removal of the violator of the state apparatus, with loss of all rights acquired in the performance of his duties.
2. If the punishment referred to in sub-paragraph d) of paragraph 1 falls on an official of category not subject to demotion, the penalty shall be graduated to the next higher or lower sanction, depending on the aggravating or attenuating circumstances established in the respective disciplinary proceedings.
3. The dismissed official may apply for retirement provided that he has at least 15 years of service in the State.

The Law 6/2004 on GCCC

Article 11 (Sanctions)

Irrespective of other criminal, civil or administrative sanctions provided for by law and other applicable laws, the perpetrators of the crimes foreseen in the previous articles are subject to the following accessory measures:

- a) Loss of assets or values unlawfully added to its patrimony;
- b) Integral indemnification of the damages caused;
- c) Expulsion from the profession;
- d) Inhibition of contracting with the State or with public companies or to receive tax or credit benefits or incentives.

(b) Observations on the implementation of the article

Sanctions for public officials in breach of their duties set out in the LPP are provided and include, among others, fine, dismissal, or imprisonment. Violation of the rules on conflict of interest constitutes a disciplinary offence punishable by dismissal or expulsion (art. 87). If the act constitutes a crime, the Penal Code or specific legislation, such as LFAC, apply (art. 88 LPP, art. 78 GSOSA). The GSOSA also provides for disciplinary sanctions, including warning, public rebuke, fine or relegation (art. 81) and sets out in detail the disciplinary proceedings against public officials (art. 99-114).

Public bodies have their own disciplinary mechanisms and impose sanctions. The established PECs are responsible for identifying cases of conflict of interest and may recommend relevant bodies to apply administrative, civil and disciplinary measures. The work of PECs is overseen by the CEC who transmits cases of breach to the GCCC for further consideration (art. 50-55 LPP).

No cases or statistics have been provided. As such, **it is recommended that Mozambique effectively apply the disciplinary sanctions envisaged in the LPP.**

(c) Technical assistance needs

Capacity-building: Mozambique indicated that technical assistance would be beneficial to strengthen Central Ethics Commission and to make it more effective on the issue of conflict of interest management.

Article 9. Public procurement and management of public finances

Paragraph 1 of article 9

1. Each State Party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, inter alia:

(a) The public distribution of information relating to procurement procedures and contracts, including information on invitations to tender and relevant or pertinent information on the award of contracts, allowing potential tenderers sufficient time to prepare and submit their tenders;

(b) The establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication;

(c) The use of objective and predetermined criteria for public procurement decisions, in order to facilitate the subsequent verification of the correct application of the rules or procedures;

(d) An effective system of domestic review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this paragraph are not followed;

(e) Where appropriate, measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements.

(a) Summary of information relevant to reviewing the implementation of the article

In 2005, Mozambique adopted specific legislation on public procurement. As of 2017, public procurement is governed by the Decree 5/2016, which revoked the decree 15/2010.

Mozambique has a decentralized procurement system. Each organ or institution of the public administration is responsible for designating their own procurement unit called “Acquisition Management Unit” (AMU). AMUs are responsible for all procurement processes, including procurement planning, preparing invitations to tenders, preparing procurement-related documentation and coordinating the contract implementation (art. 14 of the Decree 5/2016). AMUs also receive complaints and appeals, which are then forwarded to the Functional Supervision Unit of Acquisitions (FSUA) to deal with.

The FSUA is the main supervisory body responsible for overseeing public procurement processes, providing inspection and technical supervision of the AMUs, and preparing procurement guidelines, manuals and standards. It also manages the national centralized data system and provides information and training programmes on the issue of public procurement. The FSUA is an integrated unit within the Ministry of Finance

FSUA’s duties are listed in **Article 19 of the Decree 5/2016**:

A) To coordinate the supervision related to public procurement and provide technical guidance on procurement procedures;

B) To elaborate and manage training programmes related to public procurement;

C) Take necessary measures to ensure that the State institutions, municipalities and State enterprises observe correctly the procurement rules;

D) To propose to the Minister, who oversees the area of finance, the adoption of supplementary standards, which are Application of the Regulation;

(E) Issue instructions or recommendations on procurement procedures, as well as on the application of the Decree;

F) Provide information, clarifications and opinions on the application of the Decree, when requested;

G) To propose to the Minister, who oversees the area of finance, the issuance or updating of the tender documents, manuals and procedures;

H) Issue specialized expert opinions on resources when requested by the Minister responsible for the Entity Contractor;

- I) proposing profiles for Employees and Agents of the State assigned to the Acquisition Management Units;
- (J) Promoting and harmonizing procedures related to contracts in accordance with the rules of state financial administration, including implementation by electronic means;
- K) Promote ethical and transparent practices;
- L) Establish mechanisms of cooperation with the organs of internal and external control;
- M) Receive and analyse complaints submitted to it by any person about irregularity in the application of the Decree;
- N) Report to the competent organs and authorities any irregularities found during the exercise of its functions;
- O) Assess the results achieved through the application of the D in view of the economic and efficiency in the application of public resources;
- P) Provide information on prices of goods and services on the market;
- Q) Compare the prices charged in contracts with those on the market;
- (R) Carry out necessary quantitative and qualitative studies the definition and implementation of policies on Public procurement;
- S) Analyse trends and best hiring practices and propose information systems and application of information and communication technologies in the processes of hiring; and
- T) Formulate, create and provide maintenance and updating of the catalogue of goods and services, including through electronic means.

The authorities, through their AMUs, appoints a jury for each procurement process. The jury is tasked with opening of the participants' proposals and playing the oversight role throughout the process. The jury evaluates the proposals and submits a recommendation to the contracting authority (art. 15 of the Decree 5/2016). The jury is composed of at least three qualified members, one of them being from the AMU. All decisions of the jury must be recorded in the minutes and signed (art. 16 of the Decree 5/2016). The AMU assists the juries in their duties (art. 14 of the Decree).

The public procurement system of Mozambique is guided by the principles of transparency, competition and objective criteria (art. 3 of the Decree), as well as other contracting rules, such as: to act solely in the public interest (art. 11c); publicity of the intention to contract (art. 11h); and equal conditions of participation (art. 11k).

Any natural or legal persons, including nationals or foreigners, who can demonstrate the possession of legal, economic-financial and technical qualifications and fulfil other requirements defined by tender documents are eligible to participate in tenders (art. 21, 23-26 of the Decree). Article 22 of the Decree defines grounds for refusing participation of certain persons in the process and these include previous convictions or serious professional misconduct.

Tender notices are advertised by means of public notice, portal, press, radio, newspapers or other appropriate means of communication. In addition, the publication of the notice in the press must be done at least twice by the contracting authority. Each notice of tender must define the contracting authority, the object of the tender, the modalities of the contest, the place and time the tender documents may be consulted or obtained, the timeframe for the tender, etc. (art. 33.)

Article 51 of the Decree establishes that a minimum 21 days will be provided to potential interested parties to prepare and submit their tenders. The deadline for submission of proposals starts running from the date of the tender notice or the publication of tender documents, whichever is later (art. 51). Besides the tender notice, the contracting authority must notify the FSUA (art. 46).

The general rule is that the tendering rules and selection criteria must remain unchanged throughout the procedure; however, certain exceptions exist, such as when mathematical errors are found in the tender documents (art. 56).

The documents attesting the qualification along with the tender proposal must be presented by the competitors in a single opaque, sealed envelope (art. 52). Proposals submitted after the deadline are not accepted (art. 52).

The opening of proposals is done by the jury through a public act and anyone may participate upon previous registration. The public act consists of reading of the tender procedure and the list of competitors, unwrapping of the proposal packages and reading of the minutes, which must also be signed and distributed by the members of jury. The jury then evaluates the proposals received in a closed session in accordance with the award criteria set out in the tender documents. The decision of the jury is again announced publicly and any interested party may participate (art. 54, 56 of the Decree).

The standard criterion for the evaluation of the proposals is that of the lowest price (art. 36 paragraph 1 of the Decree); however, other criteria may also be considered and include technical evaluation, terms of payment, delivery time and schedule, operating costs, costs of transport, insurance, efficiency and suitability of equipment, guarantee conditions, security, environmental benefits, etc. (art. 36 and 38). The final decision must keep a balance between the financial side and the level of quality and qualification (art. 37 and 40).

All participants are notified about the award decisions, potential disqualification and decisions regarding appeals (art. 35). The competitors may be disqualified if their proposal does not comply with the requirements of the tender documents or if it presents unenforceable or abusive conditions (art. 59).

While the general procurement method is public tender (art. 6), special methods may be applied for procurement relating to international agreements (art. 7) and certain specific categories of work and services, including of low value (art. 8). For example, the so called 'limited tenders' may be used for works and services of a low value (i.e. 5 mil. MZN for public works and 3 mil. MZN for goods and services) (art. 69). However, even for the limited tender the contracting authority must issue a tender of notice (art. 32 and 33).

Public officials involved in the procurement process are liable to disciplinary action under the GSOSA if they fail to observe the provisions of the Decree, including on the choice of procurement methods and award criteria, tender documents and other applicable legislation (art. 208 of the Decree).

In addition to the supervisory role of the FSUA, the execution of any public work is supervised by an independent auditor appointed by the contracting entity. The auditor is responsible for monitoring and verifying the fulfilment of the execution of the contract and of any possible alterations to the project. The contractor must allow the auditor a free access to the work site and provide necessary information (art. 172).

Unsuccessful competitors may submit complaints to the contracting entities within five business days after the date of notification. The contracting entity shall decide on the complaint within ten working days after the date of the receipt. The complaint has a suspensive effect on the process

(art. 275 of the Decree). Appeals against the decisions of the contracting entities may be filed with the FSUA within the Ministry of Finance, the Provincial Governor or District Administrator at the central, provincial and district levels, respectively. The appeal must be filed within three business days after the notification of the first instance decision. The appeal body shall decide on the appeal within thirty business days. The appeal bodies may request a specialized opinion from the FSA. (art. 276 of the Decree).

With regard to training of procurement officials, the FSUA provides training in this area (art. 19).

Competitors who violate the provisions of the Decree or tender documents may be subject to administrative procedure set forth by the Decree in article 281 and subsequent penalties, including a fine and the prohibition to contract with the State.

The following articles of the Decree are also relevant:

Article 1:

This Regulation establishes the legal regime applicable to the Contracting of Works of Public Works, Supply of Goods and Provision of Services, including those of Lease, Consultancy and Concessions.

Article 2:

The decree applies to all organs and institutions of the Public Administration, including the direct and indirect administration of the State, including its representation abroad, local authorities and other public legal persons.

Article 6:

The general regime for the contracting of public works, supply of goods, provision of services to the State and concessions is the public tender.

Article 7:

The contracting authority may adopt separate rules defined in this Decree related to:

- A) Contracts arising from a treaty or other international agreement between Mozambique and State or international organization, which would require adoption of specific arrangements; and
- B) Contracting carried out in the context of funded projects, wholly or substantially, with resources from funding or donation from an official agency of a foreign co-operation or financial body where the adoption of different rules is expressly provided as a condition of the respective agreement or contract.

The adoption of standards other than those of this Decree, on the basis of this article, is subject to prior authorization by the Finance Minister.

The contracting entity shall state in the announcement and tender documents the adopted rules that are other than those defined in this Regulation.

Article 32:

1. The Notice of Competition must, among other things, define accurately, sufficiently and clearly:

- A) The contracting entity that promotes it;
- B) The modality of the contest;
- (C) The subject of the invitation to tender;

- D) The location, days and times when the contest documents can be consulted and /
/ or obtained;
- E) The place, days and times of the receipt of tenders;
- F) The location, days and times when the tenders will be opened; and
- G) The location, days and times when the advertisement will be made, in accordance with Article 54 (9).

Article 33:

1. The Announcement of Competition is published by means of public notice, portal, press, being able to be radio, newspaper, or other means of adequate communication and easy access for the target audience.
2. The publication of the Call Notice in the press shall be disclosed at least two (2) times by the Entity Contractor.

Article 36:

(Evaluation and Decision Criteria)

1. The contracting of works of public works, supply of goods and provision of services shall be decided with Based on the Lowest Rated Price Criterion.
2. Exceptionally, it is not feasible to decide on the basis of In the Criterion of Lowest Price Evaluated, the Contracting Entity May do so on the basis of the Combined Criterion in the technical evaluation, Prices and other factors,

Article 40

(Decision Criteria)

1. without prejudice to specific legislation, for the decision on the concession of works or provision of public services the following criteria should be adopted separately or jointly:
 - A) Greater offer of price for the grant;
 - B) Lower tariff or price to be practiced with users;
 - C) Improved quality of services or goods Available to the public;
 - D) Better service and demand satisfaction; and
 - E) To be the holder of a valid certificate of the proud to be Mozambican - Made in Mozambique.

Article 45:

The execution of the Public Tender obliges the Contracting Authority to publish the Notice of Tender in accordance with Articles 32 and 33 and its communication to the Functional Unit for the Supervision of Acquisitions.

Article 63:

The Contracting Authority must notify all competitors of its Award decision within a period not exceeding three (3) business days from the date of the decision.

Article 276:

Among the acts of the Contracting Authority is hierarchical appeal, among others, for the Minister of Guardianship, Provincial Governor and Administrator of the District, at the central, provincial and district levels, respectively.

Article 278:

The decision rendered in a hierarchical appeal is liable to a contentious appeal.

Article 279 (Anti-ethical practices)

1. The Contracting Authority and the Competitors must observe the highest ethical standards during the procurement and execution of public works, supply of goods and services, under the terms of the legislation in force.

2. In compliance with these principles, the following definitions shall be considered for the purposes of this Regulation:

- a) "Corrupt practice" - offering, giving, receiving or requesting something of value to influence the act of a public official in the procedure of contracting or executing the Contract;
- b) "Fraudulent practice" - misrepresentation or omission of the facts, in order to influence a contracting procedure or execution of a Contract to the detriment of the Contracting Entity;
- c) "collusion practice" - conniving practice between competitors, with or without the knowledge of the Contracting Authority, to establish bid prices at artificial, non-competitive levels and deprive the Contracting Authority of the benefits of free and open competition; and
- d) "Coercion practice" - a threat or threatening treatment to persons or their families to influence their participation in the contracting procedure or execution of the Contract.

3. In the event of one or more of the practices mentioned in the preceding paragraph, the Contracting Authority shall reject the Bid and declare the Bidder impeded under this Regulation.

Article 280:

Irrespective of any other applicable procedure, under the terms of the General Statute for Officials and State Agents, any officers or employees who, participating in or taking part in the contracting procedure, are liable to disciplinary action violate or fail to observe the provisions of the This Regulation, in the Bidding Documents and other applicable legislation.

Article 281 (Practical Documents by Competitors)

1. The administrative procedure referred to in the following paragraphs may be those competitors who, by themselves or through third parties, induce or compete for the practice of an act that violates the provisions of these Regulations or the Bidding Documents.

2. It is incumbent upon the Functional Unit for the Supervision of Acquisitions to institute, conduct and decide the administrative procedures referred to in the preceding paragraph, under the terms to be established by order of the Minister who oversees the area of Finance.

3. The following penalties shall apply in addition to any other procedure:

- A) Payment of a fine;
- B) Prohibition to contract with the State for a period of one (1) year; and
- C) In case of a repeat offense, prohibition to contract with the State for a period of five (5) years.

4. The sanctions referred to in the previous paragraph shall take into account:

- A) The seriousness of the infraction with respect to the object of the contracting;
- B) Economic and financial situation of the competitor, in particular its capacity to generate revenues;
- C) The degree of involvement of the competitor in the commission of the illegal act;

- D) The benefit collected by the competitor;
- E) The amount of administrative expenses caused by the invalidation of the illegal act; and
- F) Recidivism.

(b) Observations on the implementation of the article

Decree 5/2016 establishes the legal regime applicable to all public procurement in public administration. Mozambique applies a decentralized system of procurement where each contracting authority designates their own procurement unit (AMU) responsible for all stages of the procurement process. However, the FSUA within the Ministry of Finance is responsible for the overall coordination of procurement in Mozambique, providing inspection, technical support and training to AMUs and preparing procurement guidelines and manuals.

The Decree sets out the requirements for each stage of the procurement process, including the different procurement methods (art. 6-8), invitation to tenders (art. 32-33), requirements for participants (art. 21-26), and submission and evaluation of proposals (art. 51-60). While the general procurement method is public tender (art. 6), special methods may be applied for procurement relating to international agreements (art. 7) and certain specific categories of work and services, including of lower value (art. 8).

Relevant complaints can be addressed to the contracting authority's AMU, and further appeals can be lodged with the FSUA or administrative courts (art. 275-276). The FSUA provides training to public officials involved in public procurement (art. 19).

The review team noted that Mozambique had put in place a comprehensive system for public procurement and therefore complies with the provision under review. No information has been provided on the effectiveness of the complaint and appeal system, such as statistics or examples of cases and **as such, it is recommended that Mozambique ensure that the system of domestic review in the area of public procurement is effective and capable of bringing results.**

It appears that procurement officials in the AMUs, as well as employees of the FSUA are not subject to declarations of assets and interests, and that they are not subject to any special screening procedures. **It is recommended that Mozambique consider introducing clear screening procedures and training requirements for procurement personnel; and ensure the effectiveness of the system of domestic review through introducing the possibility to appeal a procurement decision in courts.**

Paragraph 2 of article 9

2. Each State Party shall, in accordance with the fundamental principles of its legal system, take appropriate measures to promote transparency and accountability in the management of public finances. Such measures shall encompass, inter alia:

- (a) Procedures for the adoption of the national budget;*
- (b) Timely reporting on revenue and expenditure;*
- (c) A system of accounting and auditing standards and related oversight;*
- (d) Effective and efficient systems of risk management and internal control; and*

(e) Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.

(a) Summary of information relevant to reviewing the implementation of the article

The Constitution calls for the preparation of the so-called “Economic and Social Plan”. The purpose of the Plan is to guide the economic and social development in the country and is financially expressed in the national budget.

Constitution

Article 128 (Economic and Social Plan)

1. The Economic and Social Plan aims at guiding economic and social development towards sustainable growth, reducing regional imbalances and progressively eliminating economic and social differences between the city and the countryside.
2. The Economic and Social Plan has its financial expression in the State Budget.
3. The proposal of the Economic and Social Plan is submitted to the Assembly of the Republic accompanied by reports on the major global and sectoral options, including the respective rationale.

Article 129 (Preparation and execution of the Economic and Social Plan)

1. The Economic and Social Plan is prepared by the Government, based on its five-year program.
2. The proposal of the Economic and Social Plan shall be submitted to the Assembly of the Republic and shall contain the forecast of the macroeconomic aggregates and the actions to be carried out in order to pursue the lines of sectoral development and shall be accompanied by execution reports that support it.
3. The elaboration and execution of the Economic and Social Plan is decentralized, provincial and sectoral.

Article 130 (State Budget)

1. The State Budget shall be unitary, shall specify revenue and expenditure, and shall at all times respect the rules on annual publication and on publicity, in accordance with the law.
2. The State Budget may comprise multi-annual programmes or projects, in which case the budget shall present the expenditure in respect of the particular year to which it refers.
3. The State Budget bill shall be drafted by the Government and presented to the Assembly of the Republic, and it shall contain information to substantiate revenue forecasts, limits on expenditure, deficit financing, as well as all information to substantiate budgetary policy.
4. The law shall determine the rules for implementation of the budget and shall establish the criteria according to which the budget may be modified, the implementation period, as well as the procedures to be followed when the deadlines for presentation of the budget or voting on it cannot be met.

Article 131 (Supervision)

The Administrative Court and the Assembly of the Republic shall supervise the implementation of the State Budget, and the Assembly of the Republic shall appraise and decide on the General State Account after it has received the opinion of the Administrative Court.

At the end of the 1990s, Mozambique introduced profound reforms within the entire financial management system of the State, which led to the creation in 2001 of two technical units with the responsibility to initiate and direct the process, namely the Financial Technical Reform Unit (UTRAFE) with the task of coordinating, designing, operating and monitoring all processes related to the Reform of the State Financial Administration System (SISTAFE) and the Internal Revenue Tax Reform Unit (URTI), which would be in charge of the tax reform in the area of internal taxes. These reforms had as main objective to review the tax system and to increase the collection of taxes as well as to ensure the efficient allocation of public resources, the reliable accounting record and in accordance with the accepted international accounting principles and their control and audit. As a result of these reforms, on the revenue side, the tax system was revised with the approval of the General Tax Law, the Law on Value Added Tax (VAT) and later in 2006 the National Tax Authority was created. With regard to the allocation of resources and its registration, the new System of Financial Administration of the State (SISTAFE) was created with the approval of law n. 9/2002 (SISTAFE Law). The law n. 9/2002 created several financial administration sub-systems, including the State Budget Subsystem (SOE) and the Internal Control Subsystem for accounting and auditing standards and related oversight (SCI).

Law no. 09/2002 (SISTAFE Law)

Article 1 (Object)

1. The State Financial Administration System, hereinafter referred to as SISTAFE, is hereby established.
2. SISTAFE comprises the following subsystems:
 - a) State Budget Subsystem;
 - b) Public Accounting Subsystem;
 - c) Public Treasury Subsystem;
 - d) State Patrimony Subsystem; and
 - e) Internal Control Subsystem.
3. SISTAFE establishes and harmonizes rules and procedures for the programming, management, execution and control of the public treasury, in order to allow its effective and efficient use, as well as to produce the information in an integrated and timely manner, concerning the financial administration of the bodies and state institutions.

Article 7 (Organizations)

1. SISTAFE comprises a set of administrative bodies, subsystems, rules and procedures that make it possible to obtain revenue, carry out expenditure and manage the State's assets, including their applications and corresponding registration.
2. SISTAFE also includes the collection and management of revenues that do not determine changes to the State's assets.

Article 10 (Subsystem of State Budget - Organizations)

The State Budget Subsystem, shortly designated by SOE, comprises all the bodies or institutions that intervene in the budgeting and financial programming and control processes, and also covers their respective rules and procedures.

Article 11 (Competency)

It is the responsibility of the bodies that constitute the SOE:

- a) Prepare and propose the necessary elements for the elaboration of the State Budget;
- b) Prepare the Budget Law Bill and its rationale;
- c) To evaluate the budgets projects of the bodies and institutions of the State;
- d) To propose measures necessary for the State Budget to begin to be executed at the beginning of the fiscal year to which it refers;
- e) Prepare, in coordination with the Public Treasury Subsystem, the programming related to budgetary and financial execution, through compliance with the provisions of this Law and respective complementary regulations;
- f) Evaluate the changes to the State Budget;
- g) Evaluate budgetary and financial execution processes.

Article 12 (Object)

The State Budget is the document in which the revenue to be collected and the expenses to be incurred in a given fiscal year are projected and is intended to pursue the financial policy.

Article 14 (Revenues)

1. All monetary or in-kind resources, regardless of their source or nature, made available to the State, with the exception of those in which the State is a mere temporary depository, constitute public revenue.
2. No revenue may be established, entered in the State Budget or collected except by virtue of a previous law and, even if established by law, revenues may only be collected if they are provided for in the approved State Budget.
3. The amounts of revenue inscribed in the State Budget constitute minimum limits to be charged in the corresponding fiscal year.

Thus, all state institutions and bodies, with administrative and financial autonomy, or not, municipalities and public companies, must present the totality of the expected revenues, mentioning the legal basis that establishes them.

The completion of the files is done on an annual basis, when different reference is not specified

Article 15 (Expenditures)

1. Public expenditure shall be any expenditure of monetary or in-kind resources, regardless of their origin or nature, expended by the State, with the exception of those in which the beneficiary is obliged to replace them.
2. No expenditure can be assumed, ordered or carried out without being legally registered in the approved State Budget, has a corresponding budget and is justified on its economy, efficiency and effectiveness.
3. Expenditure may only be incurred during the financial year for which it has been budgeted.
4. Budgetary appropriations shall be the ceiling to be used for public expenditure in the corresponding financial year.

Accordingly, all State institutions and bodies with administrative and financial autonomy, or not, municipalities and public companies should anticipate the expenses that may be incurred in the financial year to be programmed, so that it is possible to implement the said expenses.

Article 20 (Measures)

1. The measure comprises expenditures of well-specified and characterized projects or actions, or projects, which articulate and complement each other and contribute to the achievement of the objectives of the program in which they are inserted.
2. The measure is implemented by a single management entity.

Article 21 (State budget)

1. The elaboration of the State Budget is annual and is the responsibility of the Government.
2. In the annual preparation of its programs and budgets, the Government shall take into account its compatibility with the multiannual investment budgets, taking into account all the planning outlined in the preparation of these programs.
3. The programming and execution of the State Budget should be dealt with at current prices.

Article 25 (Presentation)

The Government submits by September 30 of each year to the Assembly of the Republic the proposal of the State Budget referred to in n. 1 of article 21 of this Law.

Article 26 (Approval of the State Budget)

1. The Assembly of the Republic shall deliberate on the proposed State Budget Law no later than 15 December of each year.
2. Once the State Budget has been approved, the Government is authorized to:
 - a) To carry out the management and execution of the approved State Budget, adopting the measures considered necessary for the collection of the estimated revenues and the realization of the established expenses;
 - b) To proceed with the collection and allocation of the necessary resources, always taking into account the principle of the most rational use of approved budgetary appropriations and the principle of improved cash management;
 - c) Proceed with the opening of public credits to meet the budget deficit;
 - d) Carry out credit operations in anticipation of revenue to meet temporary cash deficits.
3. Once the State Budget has been approved, the deputies and committees of the Assembly of the Republic cannot take legislative initiatives that involve increasing expenses or decreasing revenues.

Also, under Law 09/2002, the SISTAFE Law, there are dispositions concerning the timely reporting of the Economic and Social Plan and the State Budget (Article 35)

Article 35 (Periodic information)

1. The Government provides semi-annual information on the execution of the Economic and Social Plan and State Budget, to the Assembly of the Republic, up to 45 days after the semester.
2. The Government also provides quarterly information to the Assembly of the Republic on the execution of the State Budget, which shall be published in the *Republic's Bulletin*.

Article 57 (Organizations)

The Subsystem of State Patrimony, designated by the SPE, comprises the bodies or institutions of the State that intervene in the processes of administration and management of the patrimonial assets of the State and also includes the respective norms and procedures.

Article 62 (Organizations)

The Internal Control Subsystem, which is shortly designated by SCI, comprises the bodies and entities involved in inspecting and auditing the collection, collection and use of public resources, and also covers their respective rules and procedures.

Article 64 (Object)

The purpose of internal control is to:

- A) To supervise the correct use of public resources and the accuracy and fidelity of accounting data;
- B) Ensure, through supervision, the standardization of the application of accounting rules and methods;
- C) Verify compliance with applicable legal rules and procedures.

Law 09/2002 also sets in place a liability regime, which refers to dispositions in the Penal Code regarding situations in which the entitled authority fails to comply with requirements concerning the management of public finances.

Article 66 (Liability regime)

1. Holders of public offices, officials and agents of the State and other public entities are financially, disciplinarily, criminally and civilly liable under the law for infractions that they practice in the exercise of their budgetary or financial execution functions.
2. The State and other public legal persons are civilly liable for damages caused to third parties, under the terms of the law.
3. The authorities ordering the receipt of any direct or indirect contributions, of whatever nature, not authorized by law, and officials who, by themselves or in compliance with higher orders, levy unauthorized contributions or taxes, or those who knowingly do so for a higher value than the one that is due, are punished with the penalty that will fit the crimes of concussion or arbitrary imposition of contributions, provided for in the Penal Code.
4. Any public official who, by negligence, acts in contravention or omits act, defined in this Law, responds disciplinarily in accordance with the General Statute of State Employees.
5. Without prejudice to the disciplinary or criminal liability that may be applicable to the case, the State shall have the right of return over any public official who causes, by his or her act or omission, damages to the State.

Penal Code:

Article 517 (Concussion)

A public servant who extorts money, services, or other things from himself or others, employing violence or threats or moral coercion, shall be punished with imprisonment of two to eight years and a fine of up to two years.

Article 518 (Arbitrary taxation of contributions)

1. A public servant who, without legal authorization, arbitrarily imposes a contribution, or receives by himself or by another person any importance thereof for the public service as well as those charged with the billing or collection of taxes, income, money or anything belonging to the State or to public entities that receive with the same destination what is not due or more than due, will be punished with a prison sentence of up to one year and a fine of up to two months.

2. The same penalty shall be applied to those who, by commission or legal appointment of the public servant referred to in this article, commit the crime set forth in the same article.
3. If the value or thing improperly received, billed or collected, is converted by the agent for his own benefit, the penalty of imprisonment to be applied will be up to two years and a fine up to six months.

The SISTAFE is also regulated by the Decree 23/2007, which describes the macro-process concerning, among others, the execution of the state budget and the evaluation of the management of the budget and of the patrimony of the State, comprising, supervision, intermediate and management units.

Decree 23/2004 - Approves the Regulation of the State Financial Administration System

Article 8 (Macro-Process of Execution of State Budget - Proceedings)

1. The macro-process of Execution of the State Budget comprises the preparation of the beginning of the fiscal year, incorporation of a State body or institution in SISTAFE, administration of the State Budget, execution of the phases of revenue, execution of financial programming, execution of the expenditure and closing phases of the fiscal year.
2. The activities of the macro-process of execution of the State Budget are developed in the subsystems of the State Budget, Public Treasury and State Patrimony, being treated by the Public Accounting subsystem and evaluated by the Internal Control subsystem in the management of the Budget and the State's assets.

Article 10 (Macro-Process of Evaluation of the Management of the Budget and of the Patrimony of the State - Processes)

1. The macro-processes of evaluation of the management of the Budget and State Patrimony comprise the processes of evaluation of the fulfilment of the goals foreseen in the plans and programs, evaluation of the execution of the State Budget and evaluation of the management of the public administrators.
2. The activities of the macro-process of evaluation of the management of the Budget and of the Patrimony of the State are developed in the Subsystem of Internal Control, using the information provided by the Subsystems of State Budget, Public Treasury, State Patrimony and Public Accounting.

Article 12 (Supervision Units)

1. The Supervisory Units are responsible for the technical guidance and supervision of the subsystem to which they belong.
2. For the Central Bodies and for all Local Bodies, there is a single Supervision Unit for each SISTAFE Subsystem.
3. In each local authority body there is a Supervision Unit for each SISTAFE subsystem.
4. For all State enterprises, there is a single Supervision Unit for each SISTAFE Subsystem.
5. In addition to the functions referred to in paragraph 1 of this Article, the Supervision Units referred to in paragraph 2 shall have the standardization functions of the SISTAFE Subsystem to which they belong.
6. The standardization referred to in the preceding paragraph shall cover all other Supervision Units of the same SISTAFE Subsystem.

7. The designation of the body or institution of the State that exercises the function of Supervision Unit is carried out by Diploma of the Minister who supervises the area of the Plan of Finances.

Article 13 (Intermediate Units)

1. The Intermediary Units are specialized in one or more functions in each Subsystem and represent the link between the Supervisory Unit and the Management Units, enabling the application of the principle of deconcentration of SISTAFE macro-processes procedures.
2. For Central Bodies and Local Bodies, there will be Intermediate Units for each SISTAFE Subsystem, classified as sectoral, provincial or district, according to the need for deconcentration.
3. Each Municipality has one or more Intermediate Units per Subsystem of SISTAFE, in accordance with its need for deconcentration.
4. Each State Enterprise has one or more Intermediate Units per Subsystem of SISTAFE.
5. The designation of the agency or institution of the State that performs the function of Intermediate Unit is carried out by Diploma of the Minister who oversees the area of Plan and Finance.

Article 14 (Management Units)

1. The Management Units are classified as Beneficiaries or Executors, being linked to an Intermediate Unit per Subsystem, for the execution of the procedures established in the macro-processes.
2. The Beneficiary Management Units are all the bodies and institutions of the State that are recipients of a portion of the State Budget that have the administrative capacity to execute the procedures established in the macro-processes of SISTAFE and support the Beneficiary Managing Units linked to it.
3. The designation of the Executing Management Units is established by a Diploma of the Minister who oversees the area of Planning and Finance, on the proposal of the Minister of Trusteeship, Provincial Governor, District Administrator, President of the Municipality or Chairman of the Board of Directors, depending on whether it is linked to a Unit belonging to a Central, Provincial, Local, Autarchic or State Enterprise.

The Law 24/2003 provides that the Administrative Court controls the legality of public revenues and expenditures.

Law 24/2003 (Improvement of the control of the legality of administrative acts, as well as the supervision of the legality of public revenues and expenditures)

Article 1 (Scope)

1. The administrative litigation and prior monitoring of the legality, concomitantly and successively, of the public revenues and expenditures, through the visa, are exercised by the Administrative Court, the provincial administrative courts and the City of Maputo.

Article 4 (Jurisdictional Function)

1. The Administrative Court shall:

(...)

- c) Supervise public revenues and expenditures and the respective fulfilment of the responsibility for financial infraction.

Article 34 (Powers of the Subcommittee on Concomitant and Subsequent Supervision of the Public Accounts Section)

1. The Subcommittee on Concomitant and Subsequent Supervision of the Public Accounts Section in the area of public revenue and expenditure shall:

- a) Carry out the concomitant and successive supervision of public money in the field of competency conferred by law, including evaluation according to economic, efficiency and effectiveness criteria;
- b) Supervise the application of financial resources obtained through loans, subsidies, guarantees and donations, within the scope of the central public administration;
- c) Appreciate and decide the processes of accountability of the entities under its jurisdiction;
- d) Be acquainted with the appeals filed by the provincial administrative courts and the City of Maputo;
- e) Other powers under the law.

Article 36 (Entities subject to inspection of public revenues and expenditures)

The following entities are subject to judgment of public revenues and expenditures:

- a) The State and all its services;
- b) Autonomous services and bodies;
- c) Local representative bodies of the State;
- d) Local authorities in accordance with the law;
- e) Public undertakings and limited or majority public companies;
- f) Extractors, treasurers, receivers, payers and more responsible for the custody or administration of public funds;
- g) Those responsible for accounts relating to material or equipment or any entities that generate or benefit from revenues or financing from international organizations or entities referred to in the preceding paragraphs, or obtained with the intervention of these organizations, namely in the form of subsidies, loans or guarantees;
- h) Administrative councils or administrative commissions;
- i) Administrators, managers or persons responsible for public funds or other assets of the State, whatever their name, as well as funds from abroad, in the form of loans, subsidies, donations or otherwise;
- j) Entities that receive, in any way, state funds;
- k) Other entities or bodies under the law.

Article 37 (Constitution of the Public Accounts section)

The section shall consist of 12 judges, who shall be assigned by decision of the President of the Administrative Court in the light of the procedural movement, one of whom shall be the President of the Section.

Article 38 (Judgment on visa procedures)

1. In the examination of cases subject to prior review, the Judge-Rapporteur shall be responsible.
2. In accordance with the terms of the preceding paragraph, acting in the competent sub-section and the provincial administrative courts and administrative court of Maputo City, and in case of

doubts regarding the matter submitted to the visa proceedings, the rapporteur shall present the respective proceedings to the session of the subsection Public Accounts Section of the Administrative Court, the Provincial Administrative Court and the City of Maputo, judging any information with the respective judges.

Pursuant to article 12 of the SISTAFE Law, the State Budget is the document in which the revenue to be collected and the expenses to be incurred in a given fiscal year are projected and is intended to pursue the financial policy. All public institutions and bodies, with administrative and financial autonomy or not, municipalities and public companies must submit their proposals considering the revenues and expenses envisaged.

The preparation of the State Budget, approved by Parliament goes through the following stages:

1. Preparation and communication of the Guidelines and Indicative Limits of Operating and Investment Expenses and Methodologies to the different institutions. The Guidelines and Indicative Limits are set out in a specific document annually prepared and disseminated by the central, provincial and district organs and / or institutions.
2. Filling in the methodology sheets and typing information on the budget proposal in the e-SISTAFE Budgeting Module.
3. Compatibility and approval of the proposals by the different institutions.
4. Submission of proposals to the Ministry of Finance.
5. Evaluation of proposals.
6. Preparation of the proposed State Budget (Operating Expenses and Investment Expenses) and its presentation to the Government;
7. Approval of the draft Government Budget by the Government and its submission to the Parliament for consideration. The proposal for the State Budget shall be accompanied by numerous documents, such as the explanation of the budgetary policy and rules for its implementation, and the revenue and expenditure forecasts.
8. Budget discussion and approval by the Parliament. The discussion follows the normal course of the other laws, and the work of the Budget Committee of the Parliament which discusses the technical aspects in particular, is relevant. The approval process must be finalized by 15 December 15 of each year.
9. Once the State Budget is approved, the government is authorized to carry out the management and execution of the approved State Budget, adopting the measures considered necessary for the collection of the expected revenues and the realization of the established expenses, etc. (as per art. 26 of the SISTAFE Law). It is the responsibility of the Ministry of Finance to communicate the approved, promulgated and published Budget to all departments and entities.
10. The supervision of the Budget in Mozambique is carried out at the political level by the Parliament and by judicial through the Administrative Court. The Administrative court has the competence to supervise the legality of public expenditure and give opinions on the general state account.

The SISTAFE Law sets out general principles and rules for the elaboration of the State Budget. Accordingly, in its preparation and execution, the State Budget observes, among others, the

following principles and rules: annuity, unity, universality, specification, non-compensation, non-appropriation, balance and publicity.

- Annuity: the State Budget has a period of validity and annual execution, without prejudice to the existence of programs that imply multiannual charges;
- Unity: the State Budget is only one;
- Universality: all revenues and expenses that determine changes to the State's assets must be compulsorily included in the State Budget;
- Specification: Each revenue and expenditure must be sufficiently individualized, except for the provisional appropriation which is earmarked for the allocation of unpredictable and unavoidable expenditure;
- Non-compensation: revenue and expenditure must be grossly inscribed;
- Non-appropriation: Proceeds from any revenue cannot be used to cover certain specific expenses, subject to the exceptions provided for;
- Balance: all planned expenditures must actually be covered by revenues inscribed in the State Budget;
- Publicity: the Budget Law, revenue tables and expense tables and other economic and financial information deemed relevant should be published in the Official bulletin of the republic.

In order to substantially reduce the number of state bank accounts, a single treasury account was created in 2004.

There was also a normalization of budget execution in accordance with new processes introduced. In particular, the financial administration manual was approved by ministerial decree 169/2007 of 31 December, and later revised by ministerial decree 181/2013 of 14 October. In 2013, the General Inspectorate of Finance was established through the Decree 60/2013 of 29 November.

In addition, the Ministerial Diploma n. 167/2007, of 31 December, which approves the State's financial administration manual and accounting procedures, ensures transparency in revenue collection and administration. Article 68 of the Diploma establishes that no income can be established, inscribed in the budget of the State, but by law, and even if established by law, revenues can only be collected if they are foreseen in the budget.

Article 69: The execution of the revenue follows the following phases:

- a) Release: administrative procedure to verify the occurrence of the event generating the corresponding obligation;
- b) Liquidation: Consists in the calculation of the amount of revenue due and identification of the respective taxable person;
- c) Collection: It consists in the action of collecting, receiving the revenue and subsequent delivery to the public treasury.

There is a monthly and annual accountability mechanism to internal control bodies, according to which the management acts carried out by the various agents responsible are evidenced (Articles 98, 99).

On the other hand, there is an oversight mechanism that consists in verifying and consequently approving or not, the processes of accounting for the acts of management practiced (Article 105

In addition to all the aforementioned checks, there are established internal control routines, adaptable to the peculiarities of each body, that allow the effective evaluation and supervision of the regularity in the custody and application of money, assets and other amounts placed at the disposal of the unit or by the latter (Article 109).

(b) Observations on the implementation of the article

With a view to strengthening the financial administration of the country, Mozambique embarked on the path of reforms in late 1990s, which resulted in the adoption of the new System of Financial Administration of the State (SISTAFE) in 2002. The SISTAFE Law establishes administrative bodies and regulates all processes related to the adoption and implementation of the national budget, public accounting, treasury, State patrimony and internal controls. In particular, for each of these areas (also called sub-systems), every central and local body establishes a dedicated supervisory, intermediate and management units (art. 8, 10 and 12 of the Decree 23/2004)

With regard to the national budget, the Constitution sets out the basic requirements for its adoption in articles 130 and 131 which are further elaborated in the SISTAFE Law. The national budget is prepared by the Government and adopted by the National Assembly (art. 12-26 SISTAFE Law).

All public bodies and institutions are required to keep record and report on all revenues and expenditures (art. 14 and 15 SISTAFE Law). In addition, the SISTAFE Law provides for the internal control subsystem with the aim to supervise the use of public resources, standardise and monitor the implementation of the accounting rules and verify compliance with the applicable legal rules (art. 62 and 64 SISTAFE Law). The Administrative Court is the body responsible for supervising public revenues and expenditures (art. 4 of the Decree 24/2003).

The SISTAFE Law also regulates the system of accounting and auditing standards under the sub-system of public accounting (art. 43, 45, 48, 50, 62 and 63).

Failure to comply with the requirements of the SISTAFE Law is subject to financial, disciplinary, criminal and civil liability of the persons responsible (art. 66 SISTAFE Law, art. 517 and 518 Penal Code).

With a view to successfully fighting the illicit use of public funds, it is recommended that Mozambique strengthen the e-SISTAFE through taking additional measures on transparency and accountability and effectively applying sanctions for non-compliance.

Paragraph 3 of article 9

3. Each State Party shall take such civil and administrative measures as may be necessary, in accordance with the fundamental principles of its domestic law, to preserve the integrity of accounting books, records, financial statements or other documents related to public expenditure and revenue and to prevent the falsification of such documents.

(a) Summary of information relevant to reviewing the implementation of the article

The SISTAFE law (9/2002) establishes that public accounting has the purpose of producing and maintaining records and evidencing the transactions carried out by State agencies and their effects on State assets (art. 38).

One of the Subsystems of SISTAFE concerns Public Accounting (SCP), and along with other subsystems of SISTAFE, it is applicable to all bodies and institutions of the State.

Law 9/2002 (SISTAFE Law)

Accounting bookkeeping

Article 2 (Scope)

1. This Law applies to all bodies and institutions of the State.
2. The preceding paragraph includes the institutions of the State with administrative and financial autonomy, in the terms provided for in article 6 of this Law.
3. This Law also applies to municipalities and State enterprises, except for the rendering of accounts, which is governed by specific legislation.

Article 36 (Organizations)

The Public Accounting Subsystem, which is shortly referred to as SCP, comprises all State bodies and institutions that intervene in the budget execution, collection, recording, monitoring and processing of transactions that may produce or cause changes in State Patrimony. Rules and procedures.

Article 37 (Competency)

It is incumbent upon the bodies or institutions that make up the SCP:

- a) To prepare and propose standards, technical procedures, reports and maps, as well as their methodology and periodicity, with a view to harmonization and accounting standardization;
- b) To prepare and update the chart of accounts;
- c) To implement the State Budget;
- d) To monitor and evaluate the systematic and timely recording of all transactions;
- e) To prepare the reports of periodic information to be submitted by the Government to the Assembly of the Republic;
- f) To prepare the General State Account.

Article 38 (Object)

1. The purpose of Public Accounting is to produce and maintain records and evidence the transactions carried out by State bodies and institutions and their effects on the state patrimony.
2. Accounting maintains the analytical and summary records of assets, rights and obligations forming part of the patrimony of the bodies and institutions of the State covered by the terms of article 2 of this law.

In accordance with article 43, the government prepares, at the end of each fiscal year, the balance sheet, the budget control charts, the income statement and the accounting inventory.

Article 39 (Principles and specific rules)

Public accounting respects, among others, the following generally accepted principles:

- a) Consistency, on the basis of which accounting procedures from one financial year to the next should not be altered;
- b) Materiality, according to which the information produced presents all the relevant elements that allow the monitoring of the use of public resources;
- c) Comparability, according to which the recording of transactions observes the determined standards throughout the life of the respective bodies or institutions, so that the data produced can be compared over time and space;
- d) The opportunity for information to be produced in a timely and useful way to support decision-making and management analysis.

Article 43 (Accounting Statements)

The government prepares, at the end of each fiscal year, the Balance Sheet, Budget Control Maps, Income Statement and Accounting Inventory.

Article 45 (Object)

The purpose of the General State Account is to show budgetary and financial execution, as well as to present the result of the fiscal year and the evaluation of the performance of the State bodies and institutions.

Article 48 (Structure of the General State Account)

1. The General State Account should contain the following basic documents:

- a) The Government's report on the results of budgetary management for the financial year;
- b) The overall financing of the State Budget with a breakdown of the situation of the sources of financing;
- c) The balance;
- d) The Budget Execution maps, comparing the budget forecasts with the revenue collected and those with the liquidated and paid expenses, according to the classification provided for in nos. 1 and 2 of article 20 of this Law;
- e) Results report;
- f) The annexes to the financial statements;
- g) The map of financial assets and liabilities at the beginning and end of the financial year;
- h) The consolidated annual map of the movement of funds by treasury operations.

2. The Government presents, as an annex to the General State Account, the consolidated inventory of the State's assets.

3. The Government shall also present, as an information annex to the General State Account, a summary of revenues, expenses and balances for each institution with administrative and financial autonomy.

Article 50 (Time limits)

1. The Government shall submit to the Assembly of the Republic and to the Administrative Court the General Account of the State until the 31st of May of the year following that to which said account respects.

2. The Report and Opinion of the Administrative Court on the General State Account shall be sent to the Assembly of the Republic until the 30th of November of the year following that which the General State Account respects.

3. The Assembly of the Republic analyses and approves the General Account of the State, in the session following the delivery of the Report and Opinion by the Administrative Tribunal.

Article 62 (Organizations)

The Internal Control Subsystem, which is shortly designated by SCI, comprises the bodies and entities involved in inspecting and auditing the collection, collection and use of public resources, and also covers their respective rules and procedures.

Article 63 (Competency)

1. It is the responsibility of the bodies or entities that are part of the ICS to carry out the activities of verification of the application of established procedures and compliance with legality, regularity, economy, efficiency and effectiveness with a view to the good management of the resources made available to the bodies and entities. Institutions of the State.

2. The Government, through the Minister who oversees the area of Finance, may submit to the independent audit, punctual or systematic, the bodies and institutions of the State.

Article 64 (Object)

The purpose of internal control is to:

A) To supervise the correct use of public resources and the accuracy and fidelity of accounting data;

B) Ensure, through supervision, the standardization of the application of accounting rules and methods;

C) Verify compliance with applicable legal rules and procedures.

Article 66 (Liability regime)

1. Holders of public offices, officials and agents of the State and other public entities are financially, disciplinarily, criminally and civilly liable under the law for infractions that they practice in the exercise of their budgetary or financial execution functions.

2. The State and other public legal persons are civilly liable for damages caused to third parties, under the terms of the law.

3. The authorities ordering the receipt of any direct or indirect contributions, of whatever nature, not authorized by law, and officials who, by themselves or in compliance with higher orders, levy unauthorized contributions or taxes, or those who knowingly do so for a higher value than the one that is due, are punished with the penalty that will fit the crimes of concussion or arbitrary imposition of contributions, provided for in the Penal Code.

4. Any public official who, by negligence, acts in contravention or omits act, defined in this Law, responds disciplinarily in accordance with the General Statute of State Employees.

5. Without prejudice to the disciplinary or criminal liability that may be applicable to the case, the State shall have the right of return over any public official who causes, by his or her act or omission, damages to the State.

Penal Code:

Article 517 (Concussion)

A public servant who extorts money, services, or other things from himself or others, employing violence or threats or moral coercion, shall be punished with imprisonment of two to eight years and a fine of up to two years.

Article 518 (Arbitrary taxation of contributions)

1. A public servant who, without legal authorization, arbitrarily imposes a contribution, or receives by himself or by another person any importance thereof for the public service as well as those charged with the billing or collection of taxes, income, money or anything belonging to the State or to public entities that receive with the same destination what is not due or more than due, will be punished with a prison sentence of up to one year and a fine of up to two months.
2. The same penalty shall be applied to those who, by commission or legal appointment of the public servant referred to in this article, commit the crime set forth in the same article.
3. If the value or thing improperly received, billing or collected, is converted by the agent for his own benefit, the penalty of imprisonment to be applied will be up to two years and a fine up to six months.

(b) Observations on the implementation of the article

The e-SISTAFE (Electronic System of Financial Administration of the State) regulates all processes relating to the management of public funds. The SISTAFE Law regulates the system of accounting and auditing standards (art. 36-50, 62- 63) and requires public bodies to keep records and report on all revenues and expenditures (art. 14-15). The Law establishes the internal control subsystem to supervise the use of public resources and monitor the implementation of the rules (art. 62- 64). The Administrative Court is responsible for supervising public revenues and expenditures (art. 4 of Decree 24/2003). All public financial records are stored within the MOF. Public bodies may be subject to independent audits ordered by the MOF. Non-compliance with the Law is subject to financial, disciplinary, criminal and civil liability (art. 66, art. 517-518 of the Penal Code). At the end of each fiscal year, the government prepares balance sheets, budget control charts and income statements.

It is recommended that Mozambique ensure the existence of appropriate framework to preserve the integrity of accounting books, records, financial statements and other documents relating to public expenditure and revenue.

(c) Technical assistance needs

Mozambique did not indicate any technical assistance needs.

Article 10. Public reporting

Subparagraph (a) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

(a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;

(a) Summary of information relevant to reviewing the implementation of the article

Under the Law 14/2011, the State regulated the formation of the will of the Public Administration and established rules to defend the rights and interests of individuals. In this sense the citizens can collect communications from the administration and have the right to request information on the progress of procedures in which they are directly interested.

Article 15 - Law no 14/2011

The administrative acts of the bodies and institutions of the public administration, in particular the regulations, rules of procedure and procedure are published in such a way that the administrators can know in advance the legal conditions in which they can carry out their interests and exercise their rights.

Article 68

The interested parties have the right to consult the file which does not include classified documents or that reveal commercial or industrial secrecy or secrecy related to literary, artistic or scientific property.

In 2014, Mozambique adopted the Right to Information Law No 34/2014 of 31 December, which regulates the exercise of the right to information in a comprehensive manner, thus materializing the constitutional principle of the permanent democratic participation of citizens in public life and the guarantee of related fundamental rights.

Regarding the simplification of procedures, article 7 of Law no 7/2012 calls for the establishment of integrated discipline, the attribution of competencies to the organs, officials and subordinate agents, the creation of Single service branches and other forms of organic articulation. Under this law, the citizens can still oversee the public administration, monitoring, monitoring and evaluating its actions. In particular, the law introduces the possibility of the participation in consultation or public hearing, preparation of reports and independent studies, exercise of the right of petition or representation, and exercise of administrative and judicial guarantees.

Article 11

1. The supervision of public administration by the citizen, through individual or collective participation, is exercised in the processes of planning, monitoring, monitoring and evaluation of public management actions and in the execution of public policies and administrative efficiency.
3. Public administration bodies organize forms of interaction and articulation with citizens and civil society;
5. The public administration institutions covered by the law provide, according to their conditions, an electronic page, with the relevant data and procedures, namely:
 - A) the legal diplomas that regulate their organizations, operation and forms of relationship with the citizen;
 - B) the business plans and respective reports;
 - C) the models of applications and other forms in use in the institution;

- D) forms of contact between the citizen and the leaders;
- E) service letter with indication of the vision, mission, values and standard of quality of services provided by the institution;
- F) other relevant information."

Decree 35/2015 (Regulation of Law 34/2014 – The Law on Right to Information)

Article 2 (Scope)

1. This Regulation shall apply to the bodies and institutions of the State, of the direct and indirect Administration, representation abroad, local authorities and, also, private entities that, under the Law or under contract, carry out activities of public interest or that, in their activity, benefit from public resources from any source they have in their possession information of public interest.
2. For the purposes of the provisions of the preceding paragraph, the following private entities are covered by the obligation to provide information:
 - a) Have entered into an administrative contract of any nature with any public entity of the direct, indirect or municipal administration;
 - b) Are bound by public-private partnership contracts;
 - c) Benefit from a statute of public utility;
 - d) Are financed by funds from the State Budget or from the budget of any public entity which enjoys administrative and financial autonomy;
 - e) Independently of any relationship with the State or any public entity, they have in their possession information relevant to the guarantee of fundamental rights or other constitutional values.

Article 3 (Right to information)

1. Citizens, public or private persons and the media, shall have the right to request, seek, consult, receive and disclose information of public interest that is in the possession of the public and private entities mentioned in article 3 of the Law the Right to Information and in this Regulation.
2. For the purposes of realizing the principle of maximum disclosure, in cases where the public or private entity has not yet spontaneously made the information available or in others that the applicant deems appropriate, the right to information includes:
 - a) The consultation of archived documents containing the information referred to in 2 of article 6 of Law no. 34/2014, of 31 December.
 - b) The transcription or emission of certificates relative to the content of any information contained in archives, processes or any other form of conservation of information;
 - c) Consultation of minutes of any public tenders or contract awards;
 - d) Consultation of contracts concluded by the concerned public entity;
 - e) The provision of oral or written information on the course and progress of a certain administrative procedure;
 - f) Information from any public entity on the budget, expenditure plans for the current year and any previous financial years and their execution;

g) Access, view or listen magnetic or film files, as well as the possibility of obtaining copies, except those protected by copyright and by the limitations provided by Law.

Chapter II - Exercise of the right to information

Article 6 (Content of the right to information)

1. The right to seek information contained in the right to information encompasses the citizen's prerogative to investigate and request information on any subject, except if provided differently by law.
2. The information consultation gives the citizen the right of access to archives or other forms of retention of information, subject to legal limitations.
3. The right to receive information imposes the duty of responding to requests for information within the legal deadline and making it available to the citizen in the requested form, namely by oral, written, signs, reproduction of documents, issuance of authentic declarations, processes and files and the issuance of certificates.
4. The disclosure of information of public interest may be done by means of the press, books, film or any other form of transmission, but the author of the disclosure is liable for any damages it may cause to third parties, except if the damage arises from wrongly provided information by the Public Administration or by private entity.

Article 7 (Legitimacy)

1. Every citizen has the right to request and receive information of public interest.
2. For the purposes of the previous paragraph, in the case of matters that form part of the right of political participation, the national citizen shall be considered.
3. Minors and incapacitated citizens may exercise the right to information through their legal representatives or regularly appointed proxies.
4. Citizens, public or private corporate bodies and the media may exercise the right to information through their representatives.

Article 8 (Requests for access to information)

1. Requests for access to information shall be submitted to the competent authority in accordance with the applicable law to make it available, and shall:
 - a) Contain the identity of the applicant;
 - b) Identify how the applicant prefers to access the information;
 - c) Indicate, in detail and with precision, the data concerning the information requested, depending on what is reasonably required in each specific case, so that the agent can, without difficulty, identify the information requested.
 - d) To base requests for information held by private entities, demonstrating that it is essential for the guarantee of a certain fundamental right or constitutional value;
 - e) Include applicant's identity document for signature recognition by the official or receiving agent;
 - f) Include the power of attorney when information is requested in the name or on behalf of another.

2. The treatment given to the application referred in the previous number is also practiced in relation to the written document resulting from verbal requests received under the terms of the previous article.

Article 9 (Form of application)

1. Requests for information of public interest shall be submitted in writing, orally, by means of gestures, sign language or other forms of communication.
2. The following must be submitted in writing: requests for information of public interest which [...]
3. The oral and gestural requests and sign language of the information referred to in number one of this article shall be reduced in writing by the official or receiving agent.
4. Where the staff member takes care of a person with physical or elderly disability, he or she must support it in whatever way is necessary to enable his or her request.
5. The applications referred to in this article shall be submitted in duplicate, the original being with the receiving entity and the copy, duly stamped and containing the date, place and name of the official, delivered to the applicant.

Article 10 (Form of availability of information)

1. The information is made available in the specific form required by the interested party, unless, for technological or other reasons, it is not possible to satisfy the claim, in which case it will be made available in the most convenient way for both the Administration and the citizen.
2. The reproduction referred to in the preceding number shall be made through equipment, devices and other media exclusively belonging to the entity that has the required information.

Article 11 (Urgent Orders)

1. In situations where the citizen demonstrates urgency in access to information, due to the guarantee of fundamental rights or the danger of serious, irreparable or difficult damage, his/her rights or interests or in the public interest, as well as for publication of public interest, the Public Administration or the private entities concerned should seek to make the information available as quickly as possible.
2. The official or agent responsible for ensuring the right to information or any other official or agent competent to provide information responds in a disciplinary way in the event of frustration of the individual's claim if it is established that he acted negligently by making the required information available belatedly as a matter of urgency.

Article 12 (Approval of the request)

1. The applicant has the right to be notified of the granting of the application, and the notification must indicate the reproduction rates of the information, if applicable, and the manner in which the information will be provided.
2. The applicant may complain about how the information is made available if it does not correspond to his claim.

Article 13 (Time limit for making information available)

The competent administrative authorities shall provide for the inspection of documents or files and pass requested certificates, within a maximum of 21 days from the date of application.

Article 14 (Information not available)

1. If the official or agent responsible for ensuring the right to information has taken all necessary and reasonably required steps and still does not find the information requested, he shall draw up a negative certificate, which shall be certified by the competent official, containing the description of the places where the information was searched, and such certificate should be communicated to the applicant within the timeframe within which the information should have been made available.

2. The communication referred to in the previous number does not exempt the Administration from making the information available if it is located later.

Article 15 (Rejection of the request)

Refusal to provide information, consultation or issuance of documents must be based on legal exceptions and restrictions.

Article 16 (Administrative appeal)

1. The decision of rejection may be:

- a) Requested to the same director who took it, within five days, from the date of its notification;
- b) Challenged, by hierarchical appeal, within ninety days, from the date of notification of rejection.

2. The hierarchical appeal must be decided within a period of 15 days from the date of its interposition.

Article 17 (Opinion of committees for evaluation of documents)

1. The decision on the hierarchical appeal must, necessarily, come from an opinion of the Evaluation Committee of Documents, at the respective territorial level.

2. Document evaluation commissions have a period of five days to produce the opinion referred to in the preceding paragraph.

Article 18 (Judicial appeal)

The judicial appeal of decisions rejecting requests for information, consultation, prosecution and issuance of certificates is governed by the system of administrative litigation and is made through:

- a) Appeal for annulment;
- b) Intimation for information, process consultation and passage of certificates;
- c) Intention of administrative, private and concessional body to provide information.

Article 19 (Fees)

1. The availability of the information is free, except if it implies the reproduction, the notarized statement and the issuance of certificate, in which cases it is subject to fees.

2. (...)

3. The fees referred to in the preceding paragraph may be updated by a joint diploma of the Ministers who oversee the areas of finance and the management of documentation and archives of the State.

Article 21 (Documents and files on archives)

1. The entities referred to in article 3 of the Law on Right to Information and or in article 2 of these Regulation shall keep the archives available, except for exceptions provided by law, as all

information in records duly catalogued and indexed in order to facilitate the exercise of the right to information.

2. The consultation of documents and processes is exclusively done in the respective services, and their withdrawal to outside their respective premises is prohibited.

3. Damage and total or partial subtraction of a document or proceeding provided for consultation shall be punished in accordance with the penal law.

Article 26 (Limits and restrictions)

The concrete application of limits and restrictions on the right to information must be necessary and proportionate to the interest that is sought to be protected in each situation, and in case of doubt, the most favourable sense of access to information must be adopted.

Article 27 (Treatment of classified information)

1. For the purpose of exercising the right to information, access to the information covered by limits and restrictions provided for in article 20 of Law n. 34/2014, December 31, and other specific legislation, follows the regime established according to its own rules.

2. Public and private entities that carry out activities of public interest or that, in their activity, benefit from public resources of any source, must respect and observe the legal limits and restrictions established by law for requests for classified information requested by citizens, by legal persons and by the media.

Article 28 (Documents containing secrecy of state)

Classified documents are unavailable for consultation and disclosure.

The institutions responsible for ensuring compliance with the Right to Information Law are:

- Ministry of State Administration and Public Administration, which oversees the area of document management and archiving of the State, and which operationalizes its actions in the field of information law through the Documentation and Information Center. Law no 34 / 2014, of December 31 and Presidential Decree no7 / 2015, letter h) of article 3);
- Ombudsman (See Article 42 of Law No 34/2014, of 31 December);
- Assembly of the Republic (See article 42 of Law no. 34/2014, of December 31);

The Government recently restructured the Documentation and Information Center of Mozambique, through a Decree in the process of being published in the Boletim da República, in order to respond to the need to monitor the implementation of the Right to Information Law. Mozambique is in the process of inputting new information on websites, together with the provision of training and monitoring activities.

The **service** letters should be mentioned in this context – they are written instruments - incorporated into a banner form or other formats, placed in a place of easy access and visibility - through which the institutions make the citizens aware of their performance and commitments and include:

- mission statement;
- vision
- services provided to the citizen;

- length of service to the citizen.
- time to respond to citizen's requests.

Through the service letter - and other information that is posted in places of style, such as fees payable - the citizen is provided with important information that puts him in the gown for acts of corruption.

(b) Observations on the implementation of the article

Access to information is governed by the Right to Information Law (RIL) 34/2014. All public bodies at central and local levels, as well as private entities that carry out activities of public interest are subject to the obligation to provide information under the Law (art. 2). For this purpose, dedicated officers have been designated and receive information requests.

Anyone can request for free access to information of public interest, including archived documents, certificates, procurement documents, contracts, administrative procedure documents, financial documents (art. 3 and 6). Requests can be submitted in any form (art. 6 and 9) and the requirements for them are specified in the Law (art. 8). The obliged entities have 21 days to respond to the request (art. 13) and have to notify the requestors of the outcomes of the request (art. 12). Access to information can be withheld only based on exceptions and restrictions listed in the law (art. 15, 26 and 27). Denial of the access to information can be challenged through an administrative or judicial appeal (art. 16-18).

No information has been provided on the application of the law in practice. As such, **it is recommended that Mozambique ensure the effective application of the Right to Information Law and provide guidance to public officials and the public.**

(c) Successes and good practices

The review team recognized as a good practice the existence of single service counters and the development of service letters to facilitate access of citizens to public work and services.

Subparagraph (b) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

...

(b) Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and

(a) Summary of information relevant to reviewing the implementation of the article

One of the components of the public administration reform initiated by the government in 2001 included the establishment of simplification procedures. In fulfilment of this vision and with the approval of the new law of organization and operation of the public administration (law n.7 / 2012), the single service counters services were created.

Article 7

The de-bureaucratization and simplification of procedures determine the adoption of organizational models that allow the articulation of the public administration, namely through the establishment of integrated structure, the attribution of competencies to the organs, officials and subordinate agents, the creation of single service counters and other forms of organic articulation.

The single service counters create a space where the public can request various licences and decisions at one place. For example, the counters can issue certificates and registration documents for businesses, deeds of purchase and sale, inheritance certificates, debt records, licenses for various sectors (hotels, bars, food production, nurseries and schools, hospitals, pharmacies), insurance declarations, licences and other documents in the area of transport, etc. The single service counters also issue opinions. In particular, the portfolio of the following Ministries fall under the purview of the single service counters: Ministry of Industry and Commerce; Ministry of Tourism; Ministry of Justice; Ministry of Civil Service; Ministry of Science and Technology; Ministry of Finance; Ministry of Labour; and Ministry of Agriculture, Environment and Health. To date, 27 single service counters have been created throughout the country.

The government maintains several websites to facilitate the public's access to the public authorities, such as:

www.portaldogoverno.gov.mz – official e-government portal;

www.ufsa.gov.mz – procurement portal where all procurement documents can be downloaded from; and

www.cpi.co.mz – information portal for businesses.

In addition, public bodies prepare the **service letters** in the form of banners or flyers, aimed at providing an overview of the public body's work and services.

Decree 35/2015 (Regulation of Law 34/2014 – The Law on Right to Information)

Article 23 (Forms of disclosure)

1. Public or private entities that, under the law or contract, perform activities of public interest or that, in their activity, benefit from public resources of any source, are obliged to have their own website for the purpose of disclosure of information of public interest, under the terms of this article.
2. The dissemination of information may also be made through the *Republic's Bulletin*, through a newspaper of greater circulation, in one or more radio and television bodies, and by display in showcases.
3. The disclosure referred to in the previous number is made in the *Republic's Bulletin* in the cases indicated by specific legislation.
4. The use of radio and television production and editing techniques is permitted for information that, by its nature, cannot be disseminated in full or in its original format.

Article 24 (Identification of sources)

The disclosure of information of public interest, under the Law on Right to Information, implies to those who disclose the duty to quote or identify the sources of such information, when requested to do so, except as provided in specific legislation.

(b) Observations on the implementation of the article

‘Single service counters’ exist throughout the country to provide a one-stop access to obtaining various licences and certificates. Public bodies maintain their own websites and prepare ‘service letters’ to succinctly present to citizens their work and services. In addition, the RIA has established a body responsible for the management of national archives.

(c) Successes and good practices

The review team recognized as a good practice the existence of single service counters and the development of service letters to facilitate access of citizens to public work and services.

Subparagraph (c) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

...

(c) Publishing information, which may include periodic reports on the risks of corruption in its public administration.

(a) Summary of information relevant to reviewing the implementation of the article

As mentioned before, the GCCC is part of the Attorney-General’s Office. The Attorney General’s Office presents its annual reports to Parliament. One of the topics of the reports is criminality in Mozambique, including corruption. In addition, the GCCC prepares its annual reports.

The Financial Intelligence Unit is obliged to prepare its annual reports; however, this has not happened to date. The FIU will publish its first report by the end of 2017.

(b) Observations on the implementation of the article

The AG’s Office and the GCCC prepare annual reports on their work, including anti-corruption. However, no reports dedicated to the issue of the risks of corruption in the public administration have been published to date. **It is recommended that Mozambique consider publishing periodic reports on the risks of corruption in public administration.**

(c) Technical assistance needs

Mozambique did not indicate any technical assistance needs.

Article 11. Measures relating to the judiciary and prosecution services

Paragraph 1 of article 11

1. Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary.

(a) Summary of information relevant to reviewing the implementation of the article

The Constitution establishes the independence of the judiciary (art. 215 and 217). In particular, article 215 establishes that the court decisions are mandatory and prevail over those of other authorities, and article 217 states that judges are independent in the exercise of their functions, should only obey the law and are guaranteed impartiality. Article 220 further establishes the responsibility of the Superior Council of the Judiciary to administer and discipline the judges.

The judiciary has its own organic law (24/2007 Organic Law of Judiciary Courts) and has its own statute (7/2009 Judges Statute).

The statute 7/2009 sets the rights and duties of judges, including those relating to ethics, and includes the appointment rules for judges. The Public Probity Law 16/2012 is also applicable to judges and provides a broader range of ethical duties and principles, to be observed not only during the exercise of the post, but also after termination of duties.

As for the court structure in Mozambique, it consists of the Supreme Court, Higher Appeal Court, Provincial Courts and Maputo Court and District Courts. In addition, community courts have been established outside of judiciary by the executive power to deal with simple cases to settle smaller disputes, as well as administrative courts.

GENERAL:

Law 7/2009 Judges Statute

Article 1 (scope)

1. The provisions of this Statute shall apply to all judicial magistrates, whatever their situation may be.
2. The Statute shall also apply, with the necessary adaptations, to Judicial Magistrates who are exercising their functions by contract or by special regime.

Article 4 (Independence)

Judicial magistrates judge only according to the Constitution, the law and their conscience, not being subject to orders or instructions, except the duty of compliance by the lower courts of decisions handed down by superior courts.

Article 5 (Irresponsibility)

Judicial magistrates shall not be held responsible for their judgments and decisions, except in cases specially provided by law.

Article 6 (Immovability)

Judicial magistrates shall not be transferred, suspended, promoted, retired, dismissed or in any way moved, except in the cases provided for in these Statutes.

Law 24/2007 Organic Law of Judiciary Courts

Article 4 (Autonomy of courts)

The courts are endowed with administrative autonomy and shall be governed by Law 9/2002, de 13 February – SISTAFE Law.

Article 10 (Independence of Judges)

1. In the performance of their duties, judges are independent and impartial and shall only obey the Constitution and the law.
2. The independence of judges shall be ensured by the existence of a special management and disciplinary body, due to their immovability and the fact that they are not subject to any orders or instructions, except for the duty to comply with judgments handed down by the higher courts.
3. Judges may only be held liable, civilly or criminally, removed, suspended, transferred, retired or dismissed from the exercise of their duties, in the cases provided by law.

- Disciplinary proceedings (which actions are considered disciplinary violations, sanctions, who deals with them, etc.) for judges and prosecutors,

Law 7/2009 Judges Statute

Article 61 (Disciplinary infraction)

The disciplinary infraction of the facts, even if merely guilty, committed by judicial magistrates in violation of professional duties and acts or omissions of their public life, or which are reflected therein, are incompatible with the dignity indispensable to the exercise of their functions.

Article 62 (Subjection to disciplinary jurisdiction)

1. The exoneration or change of situation does not prevent the punishment for infractions committed during the exercise of the function.
2. In case of exoneration, the magistrate pays the penalty if he returns to the activity.

Article 63 (Autonomy of disciplinary justification)

1. Disciplinary proceedings shall be independent of criminal procedure.
2. The Superior Council of the Judicial Magistracy shall be immediately informed when the existence of indications of criminal offense is ascertained in a disciplinary proceeding.

Article 64 (Scale of penalties)

- a. Judicial magistrates shall be subject to the following penalties:
 - b. Warning;
 - c. Recorded rebuke;
 - d. Fine;
 - e. Relegation;
 - f. Compulsive transfer;
 - g. Inactivity;
 - h. Compulsive retirement;
 - i. Resignation;
 - j. Expulsion.

2. Without prejudice to the provisions of the following paragraph, the penalties applied shall always be recorded.

3. The penalty provided for in paragraph a) 1 of this article may be applied regardless of process, but with hearing of the offender and is not subject to registration.

Article 96 (Limitation period)

1. The disciplinary procedure shall lapse after two years, counted from the date of the occurrence of the facts on which it is based.

2. Disciplinary penalties shall lapse within the following time limits, starting from the date on which the decision becomes open to challenge:

a) Six months for fine penalty;

b) One year for three-year penalties for compulsory retirement;

c) Four years, for penalty of expulsion.

Article 97 (Disciplinary proceedings)

1. The disciplinary process is brief and does not depend on special formalities, being mandatory the hearing with the possibility of defence by the defendant.

2. The instructor may reject the actions that are manifestly useless or delaying, justifying the refusal.

3. From the order that rejects the procedures referred to in the preceding paragraph, an appeal may be brought, without suspensory effect, to the final.

Article 98 (Competency to initiate proceedings)

The Superior Council of the Judiciary is incumbent to institute disciplinary proceedings against judicial magistrates.

Article 100 (Confidential nature of disciplinary proceedings)

1. The disciplinary process is confidential until the final decision, without prejudice to the right of defence recognized to the defendant.

2. Except in the special cases provided for by law, only the certificates of evidence of the case may be passed on a reasoned request by the defendant, when they are intended to defend legitimate interests.

Article 101 (Term of instruction)

1. Disciplinary proceedings must be completed within forty-five days.

2. The period referred to in the preceding paragraph may only be exercised in a justified case.

3. The instructor must inform the Superior Council of the Judiciary and the accused of the date on which he begins the investigation of the case.

4. Failure to comply with the deadline indicated in 1 of the former present, may influence the classification of the investigating judge, if it is due to negligence.

Article 109 (Report)

Once the production of the evidence has been completed, the author shall, within a period of fifteen days, prepare a report which shall state the facts whose existence it considers proved or not proven, the legal classification and propose the applicable penalty.

Article 110 (Time limit for decision)

The final decision is rendered within a maximum period of ninety days.

Article 120 (Review)

1. Decisions handed down in a disciplinary proceeding may be reviewed at any time when there are circumstances or means of evidence capable of demonstrating the inexistence of the facts that determined the punishment or irresponsibility of the defendant and which cannot be used in due course.
2. The review may not, in the event of a review, determine the aggravation of the penalty.

Article 124 (Investigations and inquiries)

1. The purpose of investigations is to investigate certain facts.
2. Inquiries shall take place when there is news of facts that require a general inquiry about the operation of the services.

Article 127 (Conversion in disciplinary proceedings)

If the existence of an infraction is ascertained, the investigation or inquiry process in which the accused was heard constitutes the formative part of the disciplinary proceedings.

Law 24/2007 Organic Law of Judiciary Courts

Article 111 (Objectives)

The judicial inspection pursues, among others, the following objectives:

- a) To supervise the functioning of the courts and the activity of judicial magistrates;
- b) Identify the difficulties and needs of judicial bodies;
- c) To gather information on the service and merit of magistrates and bailiffs
- d) Check the degree of compliance with the programs and activities of the courts;
- e) To waive support to judicial magistrates with a view to overcoming their technical and professional difficulties.

Conflict of interest,

Law 7/2009 Judges Statute

Article 7 (Guarantees of impartiality)

Judicial magistrates are prohibited from intervening in proceedings in which a magistrate or court clerk is a person to whom they are connected by marriage, life communion, kinship or affinity in any degree of the straight line or to the second degree of the collateral line.

Article 36 (Incompatibilities)

Judicial magistrates in office may not perform any other public or private functions, except for teaching or legal research, or for scientific, literary, artistic and technical publication and publication, subject to prior authorization by the Superior Council for the Judiciary.

Article 37 (Political activity)

Judicial magistrates are prohibited from exercising partisan positions and active militancy in political parties, as well as the public pronouncement of declarations of a political nature.

Article 38 (The practice of Law as a lawyer)

Judicial magistrates may not practice law as lawyers, except in their own defence, or in that of their spouse, ascendant or descendant.

Public Probity Law 16/2012

Article 5 (Principles and ethical duties)

1. The designation for a public office by election, appointment or contract implies strict observance of the constitution and legality, as well as the principles and duties of professional ethics that guarantee the prestige of positions and the invested entities in them.
2. The exercise of the public function must be directed towards the satisfaction of the good, which is its ultimate and essential purpose.
3. In the performance of their duties, the public servant is always aware of the social values of peace, security, freedom and justice.
4. The public servant should inspire confidence in citizens to strengthen the credibility of the institution they serve and their managers.

Article 6 (Ethical principles)

The public servant, in addition to the general duties contained in the constitution, and without prejudice to the provisions of specific legislation, governs its performance by the following ethical duties and principles:

- a) Non-discrimination and equality;
- b) Legality;
- c) Loyalty;
- d) Public probity;
- e) Supremacy of public interest;
- f) Efficiency;
- g) Responsibility;
- h) Objectivity;
- i) Justice;
- j) Respect for the public patrimony;
- k) Reservation and discretion;
- l) Decorum and respect towards the general public;
- m) Excuse of participation in acts that entails a conflict of interests;
- n) Declaration of patrimony/assets;
- o) Parsimony and competency.

Article 9 (Duty of public probity)

The public servant observes the values of good administration and honesty in the performance of his or her function, and may not solicit or accept for himself or for third parties, directly or indirectly, any gifts, loans, facilities or any offers that may jeopardize the Its independence, its independence and the credibility and authority of the public administration, its bodies and services

Article 29 (Norms of Ethical Conduct)

The holder or member of a public body must perform the functions that correspond to his position, in accordance with the provisions of this Law, and without prejudice to what is provided in its own statute.

Article 30 (General principles)

1. The holder or member of a public body shall perform functions intended to satisfy the public interest and the realization of the common good, so that in the exercise of its prerogatives the public interest always prevails over personal, political or other interests.
2. In the exercise of his or her functions, the holder or member of the public body shall always bear in mind the social values of peace, security, freedom and justice.

Article 31 (Ethical obligations)

It is the ethical duties of the holder or member of a public body;

- a) perform the function with probity;
- b) depositing the sworn statement on the absence of incompatibilities or impediments to the exercise of the position, up to 30 days after taking office;
- c) refrain from invoking its quality in order to carry out its personal and private interests, including professional activities in favour of third parties;
- d) refrain from participating in the discussion and deliberation of matters in which it has a particular interest that may cause a conflict of interest under the terms of Chapter II of this Law.

(b) Observations on the implementation of the article

The independence of the judiciary is guaranteed by Constitution (art. 217) and the Judges Statute (art. 4, Law 7/2009). The Statute 7/2009 provides for the self-management and self-appointment of the judiciary, as opposed to the previous management by the Ministry of Justice. In particular, the High Council on Judiciary and Magistrates is the main self-management and disciplinary body, composed of 16 members (article 220-222 Constitution). In addition, the Judicial Inspection body (JIB) is a body accountable to the Higher Council responsible for the conduct of regular inspections aimed at ensuring the quality and performance of the judiciary in Mozambique. The JIB also deals with any complaints received by the Council as to the judges' performance.

Judges are bound by the provisions of the Judges Statute (7/2009) as well as the Public Probity Law 16/2012, and in case of non-compliance can be subject to disciplinary proceedings and sanctions (art. 61-64, 96-110, 120-127 Judges Statute). The Statute sets out judges' duties and obligations and also includes several provisions on conflict of interest (art. 7, 36-38). It also provides rules for the appointment of judges. The appointment is subject to public tenders, and criteria are set for potential candidates, including clean criminal record, age of more than 25 years, etc.

Judges and magistrates are subject to compulsory asset declarations.

No statistics have been provided on the disciplinary proceedings and sanctions for the violation of the judicial conduct.

Judges of the community courts are elected judges and are governed by the Law on Community Courts.

Mozambique noted several ad-hoc training activities for judges and prosecutors, such as a training activity in Botswana and the train-the-trainers workshop for Portuguese speaking countries in Portugal.

No information has been provided on measures taken to guarantee transparency in the court process, such as public access to judgments).

It is recommended that Mozambique enhance the independence of the judiciary, including through effectively applying disciplinary sanctions and promoting transparency in court processes and access to judgments; and increase training on integrity and anti-corruption.

Paragraph 2 of article 11

2. Measures to the same effect as those taken pursuant to paragraph 1 of this article may be introduced and applied within the prosecution service in those States Parties where it does not form part of the judiciary but enjoys independence similar to that of the judicial service.

(a) Summary of information relevant to reviewing the implementation of the article

Autonomy of the prosecution service is established (art. 2-3 Organic Law of the AGO). The Attorney General's Office has its own organic law and its own statute (Law no. 4/2017 that repeals the law 22/2007). The Statute sets rights and duties of prosecutors, including those relating to ethics. The Public Probity Law 16/2012 is also applicable to prosecutors and provides a broader range of ethical duties and principles, to be observed not only during the exercise of the post, but also after termination of duties.

The High Council of Public Prosecutors is the main managerial and disciplinary body responsible for the appointment of and disciplinary actions against prosecutors. Apart from ordinary inspections by the Higher Council, every prosecutor must prepare his or her annual performance report.

A dedicated code of ethics for prosecutors is in the process of drafting.

Prosecutors are subject to periodic asset declarations.

Law 4/2017 – Organic Law of the Attorney General’s Office.

Article 1 (Definition - Nature and composition)

1. The Attorney General’s Office is the body responsible for representing the State before the courts, defending the interests that the law determines, controlling the legality, the periods of detention, directing the preparatory instruction of criminal cases, prosecuting and ensuring the legal defence of the interests of minors, absent and incapable.

2. The Attorney General’s Office shall comprise the respective magistracy.

3. The Attorney General’s Office also includes judicial officers and assistants of bailiffs, who are responsible for the practice of notarial acts, which are governed by their own statute, and other officials.

Article 2 (Autonomy)

1. The Attorney General's Office shall enjoy autonomy in accordance with the Constitution of the Republic and this Law.

2. The autonomy of the Attorney General's Office is characterized by its adherence to the principles of legality, objectivity, exemption and the exclusive subjection of Public Prosecution Service magistrates to the directives and orders provided for under this Law.

Article 3 (Guarantees of autonomy)

The Attorney General's Office is guaranteed functional and administrative autonomy, with:

A) own budget, within the limits established in accordance with the law of the budget;

B) propose to the government, through the Minister who oversees the area of Justice, the creation and termination of their positions and services, as well as the determination of the remuneration of their magistrates, bailiffs and officials;

C) organize internal services;

D) practice own management acts.

Article 107 (Stability)

The Public Prosecutor may not be transferred, promoted, suspended, retired, dismissed or expelled, except under the terms of this Law.

Law 24/2007

Article 20 (Attorney General Office)

1. The Attorney General's Office, as the body responsible for representing the State, minors and absentees, to prosecute and defend the legality and interests determined by the Constitution and by ordinary legislation, shall be represented before each court in accordance with the terms established in law.

2. The Attorney General's Office has its own statute and autonomy, under the terms legally established.

3. In the performance of their duties, magistrates and agents of the Attorney General's Office are subject to the criteria of legality, objectivity, exemption and exclusive subjection to the directives and orders provided by law,

Disciplinary proceedings (which actions are considered disciplinary violations, sanctions, who deals with them, etc.) for prosecutors,

Law 4/2017 – Organic Law of the Attorney General's Office.

Article 159 (Disciplinary infraction)

The disciplinary infraction of the acts, even if merely guilty, committed by the magistrate of the Public Prosecution Service in violation of professional duties and acts or omissions of his public life, or which are reflected therein, are incompatible with the dignity and dignity indispensable to the performance of his duties .

Article 160 (Scope)

1. Exoneration or any change of situation in relation to the establishment plan shall not prevent punishment for infractions committed during the exercise of the function.

2. In case of exoneration, the magistrate fulfils the sanction if he returns to the activity.

Article 161 (Independence)

1. Disciplinary proceedings shall be independent of civil and criminal proceedings.
2. When, in a disciplinary proceeding, the existence of indications of criminal infraction is ascertained, the instructor shall immediately inform the Superior Council of the Attorney General's Office for the subsequent proceedings with a view (...)

Article 162 (Scale of penalties)

1. The Public Prosecutor is subject to the following disciplinary sanctions:
 - a) Warning;
 - b) Recorded rebuke;
 - c) Fine;
 - d) Relegation;
 - e) Compulsive transfer;
 - f) Inactivity;
 - g) Compulsive retirement;
 - h) Resignation;
 - i) Expulsion.
2. The sanction provided in paragraph a) of the number of this article may be applied independently of process, provided that, with hearing and possibility of defence of the defendant, and is not subject to registration.
3. The remaining penalties provided for in paragraph 1 of this article shall always be recorded.

Article 190 (Prescription of sanctions)

Disciplinary penalties shall lapse within the following time limits, from the date on which the decision becomes final:

- a) Six months, to sanction a fine;
- b) One year, for compulsory transfer sanction;
- c) Three years, for the sanction of inactivity;
- d) Five years, for the sanctions of compulsory retirement, dismissal and expulsion.

Section V - Disciplinary Procedure

Article 200 (Form of procedure)

1. The disciplinary process is brief, being mandatory the hearing of the defendant, with the possibility of defence.
2. The instructor may reject the steps required by the accused if they are manifestly useless or delaying (...)

Article 201 (Disciplinary Power)

It is incumbent upon the Superior Council of the Magistracy of the Public Prosecution Service to exercise the disciplinary power over the magistrates of the Public Prosecution Service.

Article 202 (Limitation of the procedure)

The right to claim disciplinary responsibility shall lapse after five years from the date of the infraction.

Article 203 (Confidentiality)

1. The disciplinary process is confidential until the final decision, without prejudice to the right of defence recognized to the defendant.
2. Except in the special cases provided for by law, only the certificates of evidence of the case may be passed on a reasoned request by the defendant, when they are intended to defend legitimate interests.

Article 204 (Term of instruction)

1. Disciplinary proceedings must be completed within 60 days.
2. The period referred to in the preceding paragraph may be extended only once and for a period not exceeding 15 days, at the request of the instructor, duly substantiated.
3. The instructor must inform the Superior Council of the Judiciary of the Attorney General's Office and the accused of the date on which he begins the investigation of the case.

Article 212 (Report)

Once the production of the test has been completed, the author shall draw up, within 10 days, a report which shall state the facts whose existence it considers proved or not proven, the legal classification and propose the applicable penalty.

Article 213 (Time limit for decision)

The final decision is given within a maximum of 30 days.

Article 218 (Grounds for review of disciplinary decisions)

1. Sanctioning decisions handed down in disciplinary proceedings may be reviewed at any time when there are circumstances or evidence capable of demonstrating the inexistence of the facts that determined the punishment or the irresponsibility of the defendant and that they could not be timely examined.
2. The review may not, in any case, determine the aggravation of the sanction applied.

Article 233 (Purpose of investigations and investigations)

1. The purpose of investigations is to investigate certain facts.
2. Notices shall take place when there is news of facts that require a general inquiry about the operation of the services.

Article 226 (Conversion in disciplinary proceedings)

If the existence of an infraction is ascertained, the Superior Council of the Judiciary of the Public Prosecution Service may decide that the investigation or investigation procedure in which the defendant has been heard constitutes the formative part of the disciplinary proceedings.

Conflict of interest,

Law 4/2017 – Organic Law of the Attorney General's Office

Article 125 (Oath)

In the act of taking office, the magistrate of the Attorney General's Office takes the following oath:

"I swear by my honour to devote all my energies to complying with the Constitution of the Republic and other laws, with an exemption and objectivity, in defence of the legality and interests of the Mozambican State"

Article 138 (Exclusivity)

The exercise of the functions of magistrate of the Attorney General's Office is incompatible with the performance of any other public or private function, except for teaching, literary or scientific research activities, with the authorization of the Superior Council of the Magistracy of the Attorney General's Office.

Article 139 (Political activity)

It is forbidden to the magistrate of the Attorney General's Office cannot exercise law, unless in own cause, of its spouse, ascending or descending.

Public Probity Law 16/2012

Article 5 (Principles and ethical duties)

1. The designation for a public office by election, appointment or contract implies strict observance of the constitution and legality, as well as the principles and duties of professional ethics that guarantee the prestige of positions and the invested entities in them.
2. The exercise of the public function must be directed towards the satisfaction of the good, which is its ultimate and essential purpose.
3. In the performance of their duties, the public servant is always aware of the social values of peace, security, freedom and justice.
4. The public servant should inspire confidence in citizens to strengthen the credibility of the institution they serve and their managers.

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The public servant, in addition to the general duties contained in the constitution, and without prejudice to the provisions of specific legislation, governs its performance by the following ethical duties and principles:

- a) Non-discrimination and equality;
- b) Legality;
- c) Loyalty;
- d) Public probity;
- e) Supremacy of public interest;
- f) Efficiency;
- g) Responsibility;
- h) Objectivity;
- i) Justice;
- j) Respect for the public patrimony;
- k) Reservation and discretion;
- l) Decorum and respect towards the general public;
- m) Excuse of participation in acts that entails a conflict of interests;

- n) Declaration of patrimony/assets;
- o) Parsimony and competency.

Article 9 (Duty of public probity)

The public servant observes the values of good administration and honesty in the performance of his or her function, and may not solicit or accept for himself or for third parties, directly or indirectly, any gifts, loans, facilities or any offers that may jeopardize the Its independence, its independence and the credibility and authority of the public administration, its bodies and services

Article 29 (Norms of Ethical Conduct)

The holder or member of a public body must perform the functions that correspond to his position, in accordance with the provisions of this Law, and without prejudice to what is provided in its own statute.

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2. In the exercise of his or her functions, the holder or member of the public body shall always bear in mind the social values of peace, security, freedom and justice.

Article 31 (Ethical obligations)

It is the ethical duties of the holder or member of a public body;

- a) perform the function with probity;
- b) depositing the sworn statement on the absence of incompatibilities or impediments to the exercise of the position, up to 30 days after taking office;
- c) refrain from invoking its quality in order to carry out its personal and private interests, including professional activities in favour of third parties;
- d) refrain from participating in the discussion and deliberation of matters in which it has a particular interest that may cause a conflict of interest under the terms of Chapter II of this Law.

(b) Observations on the implementation of the article

Autonomy of the prosecution service is provided in the Organic Law of the Attorney-General's Office (art. 2-3). The Attorney General's Office also has its own statute (Law no. 4/2017 that repeals the law 22/2007), which sets rights and duties of prosecutors, including those relating to ethics. The Public Probity Law 16/2012 is also applicable to prosecutors and provides a broader range of ethical duties and principles. A dedicated code of ethics for prosecutors is in the process of drafting. Prosecutors are subject to periodic asset declarations.

The Higher Council of Public Prosecutors is the main managerial and disciplinary body responsible for the appointment of and disciplinary actions against prosecutors. Apart from ordinary inspections by the Higher Council, every prosecutor must prepare his or her annual performance report.

Mozambique noted several ad-hoc training activities for judges and prosecutors, such as a training activity in Botswana and the train-the-trainers workshop for Portuguese speaking countries in

Portugal.

It is recommended that Mozambique strengthen the integrity of the prosecution service through adopting the envisaged code of ethics for prosecutors and increased training.

(c) Technical assistance needs

Mozambique did not indicate any technical assistance needs.

Article 12. Private sector

Paragraphs 1 and 2 of article 12

1. Each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures.

2. Measures to achieve these ends may include, inter alia:

(a) Promoting cooperation between law enforcement agencies and relevant private entities;

(b) Promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State;

(c) Promoting transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities;

(d) Preventing the misuse of procedures regulating private entities, including procedures regarding subsidies and licences granted by public authorities for commercial activities;

(e) Preventing conflicts of interest by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure;

(f) Ensuring that private enterprises, taking into account their structure and size, have sufficient internal auditing controls to assist in preventing and detecting acts of corruption and that the accounts and required financial statements of such private enterprises are subject to appropriate auditing and certification procedures.

(a) Summary of information relevant to reviewing the implementation of the article

The Penal Code, recently approved by Law 35/2014 on 31 December, for the first time in the history criminalized corruption in the private sector (Articles 502 and 503).

Law 35/2014 – Penal code

Article 502 (Passive Corruption for Unlawful Act or Omission)

1. Any person who, by himself or through an intermediary, requests or receives money or promises money or any property or non-equity advantage that is not due to him, to perform an act that implies a violation of the duties of his office or omission of an act that is in his duty to practice, shall be punished by imprisonment for up to two years and a fine of up to one year.
2. If the act or omission provided for in the preceding paragraph is liable to cause a distortion of competition or property damage to third parties, the author of the passive corruption shall be punished with imprisonment of two to eight years and a fine of up to two years.
3. If the act or omission provided for in paragraph 1 of this article is committed by a public servant, he shall be punished with imprisonment of two to eight years and a fine of up to two years and in the case provided for in paragraph 2 of this article punished with imprisonment from eight to twelve years.
4. If the offer or promise is voluntarily repudiated or if the money or value of the property advantage is refunded, before the practice of the wrongful act or its omission or delay, without being obliged to do so for any reason independent of its will, this article shall not be applicable.

Article 503 (Corruption passive for a lawful act)

1. Any person who, by himself or an interposed person, requests or receives money or promises money or any patrimonial or non-equity advantage that is not due to him, to perform acts not contrary to the duties of his office and punished with a prison sentence of up to one year and a fine of up to six months.
2. If the act executed damages a third party, the penalty shall be imprisonment of up to two years and a fine of up to one year.
3. If the act provided for in paragraph 1 of this article is carried out by a public servant, he shall be punished with imprisonment for up to two years and a fine up to one year and in the case provided for in paragraph 2 of this article, he shall be punished with imprisonment from two to eight years and a fine up to two years.
4. If the offered offer or promise is voluntarily repudiated or refunded the money or value of the patrimonial advantage before the practice of the act, without being obliged for any reason independent of its will, the provisions of this article cease.

In 2006, the Government approved the Decree n. 36/2006, which establishes the General Accounting Plan, applicable to all businesses, except those who carry out activities in the banking or insurance branches and small economic entities. The Plan sets out the methods of registration and fundamental accounting principles, and lists the obligations of the businesses, including the keeping of accounting books, financial statements and various supporting documents.

In 2009, the government approved the Decree 70/2009, which deals with the new accounting system for the business sector. The Accounting System established is a model of accounting normalization based on principles and rules of the International Financial Reporting Standards (IFRS). The new Accounting System distinguishes two large groups of companies with different levels of complexity, namely large and medium-sized enterprises, subordinated to the application of the General Accounting Plan approved in 2006, and small and other companies. The 2009 System has brought, among others, new accounting principles, accounting codes, models of financial statements.

Law 15/2002 on the Tax System is also relevant and introduces penalties for non-compliance with the tax obligations (articles 23-32).

The GCCC has established contacts with the Confederation of Economic Associations (CTA), resulting, among others, in several training activities for the private sector entities in matters anti-corruption. In addition, the GCCC has partnered up with the Institute of Directors of Mozambique (IoD). As a result of this partnership, the IoD adopted an integrity pact at the level of the private sector.

a) Promoting cooperation between law enforcement agencies and relevant private entities

No specific mechanism is in place for reporting of alleged corruption in the private sector. However, in some companies the so called 'green lines' are in place which receive any complaints and channel them to the GCCC, police stations, the Tax Authority, the Institute for Standardization and Quality (INNOQ) or the Consumer Institute. In addition, the so called 'complaints books' exist in all public institutions and in many private institutions.

b) Standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct; promotion of the use of good commercial practices among businesses

The following laws are relevant: Labour Law; Commercial Code; Business Registration Code; Regulation on Public Procurement; 2006 and 2009 Decrees approving the General Accounting Plan, the Law on the Tax System.

Regarding the public procurement, the law 5/2016 (article 278) establishes that private sector competitors must observe the highest standards of ethics during the process of contracting and executing public works, supply of goods and services.

Decree 5/2016 - Legal regime applicable to the Contracting of Public Works Contract, Supply of Goods and Provision of Services, including Rental, Consulting and Concessions.

Article 279 (Anti-ethical practices)

1. The Contracting Authority and the Competitors must observe the highest ethical standards during the procurement and execution of public works, supply of goods and services, under the terms of the legislation in force.

2. In compliance with these principles, the following definitions shall be considered for the purposes of this Regulation:

a) "Corrupt practice" - offering, giving, receiving or requesting something of value to influence the act of a public official in the procedure of contracting or executing the Contract;

b) "Fraudulent practice" - misrepresentation or omission of the facts, in order to influence a contracting procedure or execution of a Contract to the detriment of the Contracting Entity;

c) "collusion practice" - conniving practice between competitors, with or without the knowledge of the Contracting Authority, to establish bid prices at artificial, non-competitive levels and deprive the Contracting Authority of the benefits of free and open competition; and

d) "Coercion practice" - a threat or threatening treatment to persons or their families to influence their participation in the contracting procedure or execution of the Contract.

3. In the event of one or more of the practices mentioned in the preceding paragraph, the Contracting Authority shall reject the Bid and declare the Bidder impeded under this Regulation.

Article 281 (Practical Documents by Competitors)

1. The administrative procedure referred to in the following paragraphs may be those competitors who, by themselves or through third parties, induce or compete for the practice of an act that violates the provisions of these Regulations or the Bidding Documents.
2. It is incumbent upon the Functional Unit for the Supervision of Acquisitions to institute, conduct and decide the administrative procedures referred to in the preceding paragraph, under the terms to be established by order of the Minister who oversees the area of Finance.
3. The following penalties shall apply in addition to any other procedure:
 - A) Payment of a fine;
 - B) Prohibition to contract with the State for a period of one (1) year; and
 - C) In case of a repeat offense, prohibition to contract with the State for a period of five (5) years.
4. The sanctions referred to in the previous paragraph shall take into account:
 - A) The seriousness of the infraction with respect to the object of the contracting;
 - B) Economic and financial situation of the competitor, in particular its capacity to generate revenues;
 - C) The degree of involvement of the competitor in the commission of the illegal act;
 - D) The benefit collected by the competitor;
 - E) The amount of administrative expenses caused by the invalidation of the illegal act; and
 - F) Recidivism.

Decree-Law 1/2006 (Approves the Registry of Legal Entities)

Code of Registry of Legal Entities

Article 1 (Purpose of registration)

The Registry of Legal Entities is designed to:

- a) to publicize the legal situation of commercial companies and other entities provided for in this law, as well as the legal facts, specified in the law, relating to those;
- b) verify the admissibility of firms and denominations and ensure their protection at national level.

Article 2 (Object of registration)

The Registry of Legal Entities comprises:

- a) commercial undertakings;
- b) civil partnerships in commercial form;
- c) associations, foundations, consortia and cooperatives;
- d) representations of foreign and national entities;
- e) other entities subject to it by law;
- f) the facts subject to it, referring to the entities mentioned in the previous paragraphs.

Article 3 (Facts subject to registration in respect of commercial enterprises)

Are subject to registration:

(...) c) the deliberation of acquisition and sale of assets to partners or associates and the assessment report that served as the basis;

d) the unification, division and transmission of shares of companies by quotas, as well as shares of capitalist partners of capital and labour companies;

e) the promise to sell or encumber shares of capital and labour companies and quotas of limited companies, as well as preferential agreements, if it is agreed to give them real effectiveness, and the obligation of preference to That, in a final disposition, the testator has given equal effectiveness;

Article 9 (Conservatory)

1. The offices specially in charge of the services of the registry of legal entities are called conservatories of the register of legal entities.

2. In places where there are no private conservatorships, the services of the registry of legal entities remain in charge of the offices provided for in the organic law of registers and notaries.

Article 14 (Computer support)

1. The structure of the register of legal entities is organized through the use of computerized means.

2. There shall be in all the conservatories, specially destined to the service of registration, computer supports provided for in the Law.

3. Whenever the dynamics of the services advise it, the Central Unit may authorize the adoption of a file and other ancillary procedures that may be deemed appropriate for the proper management of the registry.

4. There shall be in each conservatory a computer access terminal to the central database.

Article 27 (Irregularities of registration)

1. The omissions or inaccuracies found in the extract from the register drawn up in accordance with their respective titles shall not lead to the annulment of the act unless they result in uncertainty about the subjects or the object of the legal relationship to which the registered fact refers or the impossibility of Other key elements of the inscribed or recorded fact.

2. The provisions of number two of the previous article shall apply, with the necessary adaptations, to rectify the omissions or inaccuracies that are not grounds for void registration.

Article 28 (Causes of voidance)

1. Registration shall be void where:

a) is false or has been drawn on the basis of forged securities;

b) the documents deposited are insufficient for the legal proof of the registered fact;

c) the documents deposited are liable to omissions or inaccuracies resulting in uncertainty about the subjects or the object of the legal relationship to which it refers;

d) it has been signed by a person without functional competency, except in cases provided for by law;

e) it was done without prior presentation, except in cases provided for by law;

f) has been made in breach of the rules of successive treatment.

2. The declaration of invalidity of the register shall be without prejudice to rights acquired by a third party in good faith if registration of the corresponding facts is prior to registration of the invalidity proceedings.

3. The invalidity of the registration can only be invoked after it has been declared by a final judicial decision.

Article 33 (Criminal Procedure)

1. If the fine is not paid and the registration is requested within the deadline and in the terms set forth in paragraph 2 of the previous article, the conservator will send the plea of transgression to the Public Prosecution Service, for the purpose of prosecution.

2. In the judgment, the judge shall set the period within which the offender must attach to the file a document proving that the registration is carried out, otherwise he will incur the penalties applicable to the crime of qualified disobedience.

Article 125 (Civil and criminal liability of the interveners in the register)

1. Anyone who registers a false or legally non-existent act shall be liable for any damages that may be caused and shall also incur fraudulent action in the penalties applicable to the crime of falsehood.

In the same civil and criminal liability incurs anyone who renders or confirms false or inaccurate statements in the conservatory or outside it, so that the records are made or the necessary documents are drawn up.

As for the codes of conduct, a code of conduct exists for the Confederation of Economic Associations of Mozambique (CTA). In addition, some companies have their own codes of conduct and some larger companies have also established a dedicated compliance department.

The CTA Code of Ethics and Conduct

Article 1 (Subject matter)

This Code establishes the set of rules of conduct and ethics applicable to the members and officers of the CTA.

Article 2 (Objectives)

This Code of Conduct and Ethics aims to:

- a) Provide the members and leaders of the CTA with rules of conduct, ethics and good practices for integrity and transparency in their acts;
- b) Preserve the image and reputation of the CTA and the national business community;
- c) Minimize the impact and possibility of conflicts between members; and,
- d) Establish consultation mechanisms to enable prior clarification of doubts as to the conduct to be observed by members.

Article 3 (Scope)

1. This Code of Conduct and Ethics applies to all members and officers of the CTA.
2. The different organic or administrative units of the CTA have a duty to ensure the respect and applicability of this Code.

Article 7 (Participatory and transparent governance)

1. CTA programs are public and participated.
2. In the implementation of policies, strategies and the plan, CTA leaders should focus on engaging members to ensure effectiveness and transparency in their work.
3. In making decisions on matters affecting members, CTA officials shall ensure the transparency of their acts.

Article 8 (Good governance)

1. CTA members and officers shall comply fully with their respective statutes and other instruments of good governance.
2. The members and officers of the CTA shall report regularly.

Article 9 (Publicity of acts)

The acts of the CTA which reach the area of interest of the members, in particular the regulations and rules of procedure, must be consulted by the members and published before its entry into force.

Article 17 (Corrupt Practices)

The members and leaders of the CTA must refrain from corrupt acts and practices by reporting to the Ethics and Disciplinary Committee and the competent institutions, cases of which they have proven knowledge.

Article 26 (Commission on Ethics and Discipline)

1. Compliance with this Code is guaranteed by the Ethics and Discipline Committee.
2. When violations of the Code of Conduct and Ethics are registered, the Commission of Ethics and Discipline shall constitute a Committee of Inquiry, which shall be composed of 3 members.
3. The members of the Ethics and Discipline Committee shall be elected by the General Assembly from among the members of the CTA in full enjoyment of their rights.

c) Measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities.

Corporate entities that are subject to registration must keep up-to-date information concerning identification of the owners of 20 per cent or more of the legal entity's share capital and voting rights; identification of the members of the management bodies, attorneys and representatives; and documents substantiating the information above, such as certificates of registration, etc. (article 8 of the Anti-Money Laundering Regulation, Decree 66/2014). In addition, as described in further detail under article 14 and 52 of the Convention, financial and non-financial institutions must identify their customers, including the obligation to identify the beneficial owner and to take reasonable steps to verify his or her identity, and to keep accurate information about the beneficial owners of the transactions (article 10 of the AML Regulation).

e) Preventing conflicts of interest by imposing restrictions on the professional activities of former public officials and their employment in the private sector

Articles 26 and 46 of the LLP are relevant.

Public Probity Law – 16/2012

Article 26 (Relationship with third parties)

Without prejudice to what is provided in Chapter II on the System of Conflicts of Interest, in its relationship with third parties or with customers or users of the public sector, it is prohibited to public servants:

- a) To carry out or sponsor for third parties, administrative procedures or management that are or are not in their charge, outside the normal cases of the provision of the service or activity, so that their action implies discrimination in favour of third parties;
- b) Direct, administer, sponsor, represent or provide services, whether remunerated or not, to individuals or entities that manage or exploit concessions or privileges of the administration or that have been its suppliers or contractors;
- c) Receive, directly or indirectly, benefits arising from contracts, concessions or franchises, executed or granted by the administration;
- d) Requesting or accepting, directly or through an interposed person, gifts, benefits, favours, gratuities or benefits of any kind, from persons seeking official actions due to the benefit granted, which is presumed, when the benefit occurs in Reason of the position held, in the terms established in chapter II;
- e) Request special services or resources for the institution, when they compromise or otherwise condition the decision making;
- f) Maintain bonds that signify benefits and obligations with entities directly supervised by the official entity in which it provides services, until one year after the termination of the employment relationship;
- g) To carry out or sponsor for third parties, procedures or administrative management directly under their charge, until one year after the termination of the employment relationship.

Article 46 (Specific duties of the former public servant)

1. After the cessation of public functions. The public servant is at all times prohibited from:

- a) Act in such a way as to obtain undue advantages for himself or others from his former institution;
- b) To participate in any negotiation, contractual or otherwise, with the public institution in which it serves in favour of itself or on behalf of third parties, provided that it has intervened as an official, expert or adviser;
- c) Make use, for the own benefit or of a third party, of classified information relating to the entity for which he / she has worked or that during the period of service has had relations of subordination or guardianship;

2. In the period of 2 years, counted from the date of cessation of public functions, for whatever reason, the former public servant is prohibited from:

- a) Provide any type of service to the individual or legal entity with whom he has established a relevant relationship due to his previous position or employment;
- b) To accept a position in the corporate bodies, as a contractor or provider of liberal service with a natural or legal person whose object or activity is related to his previous position or employment;
- c) To do business for himself or business intermediation in favour of third parties with the public entity in which he rendered services.

f) Internal auditing controls and accounting standards

No information has been provided on this issue.

(b) Observations on the implementation of the article

Mozambique has criminalized corruption in the private sector (art. 502 and 503 CC). In 2006 and 2009, the country adopted a new General Accounting Plan and a new Accounting System respectively establishing standards for companies. The following laws were also cited as relevant in the area of company registration, bookkeeping and accounting and set out sanctions for non-compliance: Labour Law; Commercial Code (in particular articles 42-46 obliging businesses to keep records and inventory); Business Registration Code (in particular articles 1-3 on the public commercial register); and Tax System Law (in particular articles 23-30 providing sanctions for false or incomplete accounting and bookkeeping and non-submission of requested declarations to tax offices).

No specific mechanism is in place for reporting corruption in the private sector; however, corruption allegations can be reported directly to the GCCC and some companies have established toll-free 'green lines' to receive complaints and channel them to the GCCC or other bodies.

The Business Registration Code requires the registration of certain legal entities in the public commercial register (art. 1-3); non-compliance with the Code may trigger civil or criminal liability (art. 33, 125). The register does not include beneficial owners of legal entities; however, the Anti-Money Laundering Regulation obliges all entities subject to registration to keep information concerning beneficial owners (art. 8).

A code of conduct exists for the Confederation of Economic Associations of Mozambique (CTA). In addition, some companies have their own codes of conduct and some larger companies have also established a dedicated compliance department.

When public officials move from public positions to the private sector, a cooling-off period of two years may be imposed (art. 46 LLP).

The GCCC cooperates with the CTA on training activities for the private sector and together with the Institute of Directors prepared the 2016 Business Integrity Pact against Corruption to provide guidance to private companies in the area of anti-corruption. As of December 2017, the Pact was signed by 50 companies.

The Tax Authority is responsible for licensing and professional supervision of companies and private entities. The Commercial Code obliges companies to undergo regular audits by external auditors. No information has been provided on the subject of subsidies to and licensing of private entities and internal auditing controls.

It is recommended that Mozambique adopt clear auditing and accounting standards for the

private sector, in particular ensure that private enterprises have sufficient internal auditing controls to assist in preventing and detecting corruption and that financial statements are subject to appropriate auditing and certification procedures, and effectively apply sanctions for non-compliance.

It is also recommended that Mozambique ensure the effectiveness of the anonymous GCCC's reporting hotline and 'green lines', including through raising awareness and an effective follow-up to the complaints received.

In addition, it is recommended that Mozambique increase transparency regarding the identity of beneficial owners in accordance with article 12 (2)(c) and regulate the use of subsidies and licenses for commercial activities.

Paragraph 3 of article 12

3. In order to prevent corruption, each State Party shall take such measures as may be necessary, in accordance with its domestic laws and regulations regarding the maintenance of books and records, financial statement disclosures and accounting and auditing standards, to prohibit the following acts carried out for the purpose of committing any of the offences established in accordance with this Convention:

- (a) The establishment of off-the-books accounts;*
- (b) The making of off-the-books or inadequately identified transactions;*
- (c) The recording of non-existent expenditure;*
- (d) The entry of liabilities with incorrect identification of their objects;*
- (e) The use of false documents;*
- (f) The intentional destruction of bookkeeping documents earlier than foreseen by the law.*

(a) Summary of information relevant to reviewing the implementation of the article

Provisions of the Commercial Code are relevant. Entities must keep books and records and submit these for approval of an entity responsible for the commercial register.

Commercial Code

Article 43 (Obligation to keep books, correspondence and documents)

1. The commercial entrepreneur shall keep, under his custody and responsibility, bookkeeping and other documents corresponding to the business activity, duly ordered, for ten years or while not prescribed the obligations arising therefrom.

2. The cessation of the business activity by the entrepreneur does not exempt him from the duty referred to in the preceding paragraph and, if he has died, such duty shall fall on his heirs; In the case of the dissolution of companies, or of another commercial entrepreneur, a legal person, the liquidators are responsible for complying with the provisions of the preceding paragraph.

Article 44 (Loss or destruction of books)

1. In the event of loss or destruction of books, records or accounting documents, the commercial entrepreneur shall publish what has occurred in one of the newspapers with the largest circulation in the place of the head office or, failing that, publish the occurrence in another public form, within five working days, send the copy of the communication to the Commercial Registry Office.

2. In addition to the public communication referred to in the previous paragraph, the commercial entrepreneur, within a maximum period of ninety days from the date of the occurrence, must restore his writing, otherwise he will be considered an irregular businessman.

General Accounting Plan - approved by Decree no. 36/2006

Article 2 - The General Accounting Plan is applicable to all commercial entrepreneurs, except those who carry out activities in the banking or insurance branches. Also exempt from the obligation to use the PGC are those units of small economic size, which are understood to be those that have an annual turnover that does not exceed that provided for in n ° 2 of article 108 of the Income Tax Code Collective, approved by Decree n. 21/2002, of 30 July.

Documentary support

1. Each accounting record shall be supported by an appropriate supporting document, in accordance with commercial and tax legislation, and which may be submitted on request.

2. The commercial entrepreneur must keep, under his or her responsibility and responsibility, bookkeeping and other documents corresponding to the business activity, duly ordered, for ten years, from the last seat made in the books, except as provided in special provisions.

General Accounting Books

1. The commercial entrepreneur is required to have the journal and inventory books and balance sheets, as well as other books fixed by law.

2. Business entrepreneurs, in addition to the books indicated in the previous number, must, according to their type, have the following books:

a) Booklets of the general assembly;

b) Books of minutes of the administration;

c) Book of minutes of the supervisory body, when it exists;

d) Book of registration of liens, orders and guarantees.

3. Compulsory books may be replaced by tokens, accounting procedures or others that enable the use of new bookkeeping techniques under terms that are legally established.

4. To assist in the bookkeeping of its operations, the commercial entrepreneur may use books, records and other optional accounting procedures;

5. For your legalization, the required books, forms and instruments used for bookkeeping must be submitted to the entity responsible for the commercial registration.

6. Legalization consists in signing the terms of opening and closing, as well as placing on the first sheet of each of the number of sheets of the book and, in each sheet of each book, the respective number and heading. The heading of the leaves can be affixed by a stamp.

7. Accounting books may be kept in the form and by all appropriate means provided that procedures are used which give sufficient authenticity to accounting bookkeeping and that measures are taken to permit accounting control.

8. In the event of a posting error in the books, the respective correction must be made through accounting procedure.

Chapter II - Financial Information

Objectives

The purpose of financial statements is to provide credible financial information on the financial position, changes in the financial position and results of operations of a company that is useful to investors, creditors, the State and other users, so that investments, and decision-making can be effected in a rational way.

Recipients

The recipients of financial information are investors, financiers, workers, suppliers of goods and services, customers, the State and the general public.

Chapter V - Financial Statements

1 - Balance Sheet, Income Statement and Annex Models

1.1 - Balance Sheet

The structure of the balance sheet reflects the current trends in the accounts being arranged by increasing order of realization of the asset values and liability liabilities, as well as to allow the comparability of the amounts recorded therein with respect to the previous year.

1.2 - Income Statement

The structure of the income statement is intended to pursue a twofold objective, materialized in the presentation of the accounts of costs and income according to their nature, on the one hand, and, on the other hand, to enable, in an easy and expeditious way, to distinguish the results Resulting from the extraordinary results, as well as from among the first, from the operational activity and the financial activity.

(b) Observations on the implementation of the article

Mozambique referred to the following laws as relevant in the area of book and record keeping and false accounting in the private sector: the 2006 Decree approving the General Accounting Plan, the Commercial Code and the General Tax Law. In particular, articles 43 and 44 of the Commercial Code oblige businesses to keep records of inventory, budget and accounts and to submit those for approval to the competent authorities.

No information has been provided regarding the prohibition of the acts listed in paragraph 3 of article 12 of the Convention, nor on penalties for false accounting. **It is recommended that Mozambique take legislative steps to prohibit the acts listed in article 12 paragraph 3 of the Convention.**

Paragraph 4 of article 12

4. Each State Party shall disallow the tax deductibility of expenses that constitute bribes, the latter being one of the constituent elements of the offences established in accordance with articles 15 and 16 of this Convention and, where appropriate, other expenses incurred in furtherance of corrupt conduct.

(a) Summary of information relevant to reviewing the implementation of the article

No national provision is in place to implement the provision under review.

(b) Observations on the implementation of the article

In the absence of a relevant national provision, **it is recommended that Mozambique disallow the tax deductibility of bribes.**

(c) Technical assistance needs

Mozambique did not indicate any technical assistance needs.

Article 13. Participation of society

Paragraph 1 of article 13

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:

(a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;

(b) Ensuring that the public has effective access to information

(c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;

(d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:

(i) For respect of the rights or reputations of others;

(ii) For the protection of national security or ordre public or of public health or morals.

(a) Summary of information relevant to reviewing the implementation of the article

a) Contribution to decision-making processes

ERDAP reinforces the need to involve not only the private sector but also society in actions to prevent and combat corruption.

While no specific provisions exist on the involvement of society in decision-making processes, there is a practice of conducting consultations with various stakeholders, including businesses, NGOs, universities and other parts of the civil society during the drafting process of laws and regulations (in line with article 124 of Rules of Procedure of the Parliament and articles 113-116 of the Public Administration Act). For example, private sector entities and business associations were consulted during the adoption of the new Anti-money laundering Law. The Right to Information Act was also broadly discussed, and even disseminated in national newspapers for

comments. For the amendments in the Criminal Code, several round tables were held to gather expert opinions.

b) Access of public to information

The Right to Information Act is relevant – please see the response under article 10 subparagraph (a) of the Convention.

c) Public information activities that contribute to non-tolerance of corruption, educational programmes, etc.

The GCCC undertakes various public information activities that contribute to non-tolerance of corruption, including TV and radio advertisements, campaigns, leaflets and other awareness-raising material, press messages, etc. For example, in 2016, the GCCC partnered up with the mobile operators in Mozambique and anti-corruption text messages were widely disseminated on the occasion of the Anti-Corruption Day on 9 December.

With regard to education programmes, the GCCC cooperates with the Ministry of Education under the Memorandum of Understanding signed in August 2014. As a result of this cooperation, several anti-corruption centres have been set up in schools. Efforts are being undertaken to include anti-corruption content into school curricula. The GCCC is currently providing training to teachers and institutions in this area.

The anti-corruption nuclei in schools were created in a pilot phase in 2014 in seven of the eleven provinces of the country. In secondary schools, each nucleus is composed of the class heads (students) and class directors (teachers). With regard to primary education, teachers in each class form the nucleus, and should guide their students in carrying out activities related to the subject.

After the training is provided by the GCCC, the individual nuclei prepare their own action plans aimed at preventing corruption crimes, including through the usage of the following means:

- Discussing anti-corruption materials during classes in accordance with school curricula;
- Giving lectures on various corruption-related subjects. The lectures may be given by entities, artists or other people with some prominence;
- Disseminating integrity and anti-corruption messages in schools and communities;
- Organizing study visits;
- Developing leaflets explaining the existing legal anti-corruption framework;
- Promoting writing competitions, drawings, crafts etc. promoting anti-corruption messages;
- Interaction with caregivers and the community.

In 2017, the GCCC also organized a writing contest on anti-corruption for students as well as the competition ‘best poster on corruption’. The winning poster will be published as the symbol of the prevention of and fight against corruption for 2017. The GCCC also produced a book on anti-corruption named ‘Lilito na Escola’. 50,000 copies of this children’s book was delivered to the Ministry of Education for further dissemination.

The GCCC carries out various awareness-raising activities, including the preparation and dissemination of materials (posters, pamphlets), the delivery of lectures at various levels and to various sectors of the society, the development of messages and advertisement on anti-corruption for the radio and television, the organization of press conferences, etc. In addition, the GCCC has

put on the display various anti-corruption messages on public roads, border posts, airports, as well as disseminated in the public and private media of texts and images on corruption.

In 2016, the GCCC conducted several awareness raising actions, such as:

- Completion of the production of the publication brochure of the Writing Contest on Corruption for Students, with 600 copies being printed in the distribution process by schools and public institutions;
- Production of 10,000 decals for the dissemination of the Green Line of anti-corruption offices, distributed to motorists of semi-collective passenger transport and on public roads, as part of the passage on September 5, Legality Day; and
- Promotion of civic education actions using mass communication mechanisms, where GCCC reissue and insert radio and television spots to raise public awareness about the compliance of this legal instrument with the need to declare the patrimony; Dissemination of the Green Line of anti-corruption offices, as well as to sensitize citizens to refrain from corruptive practices.
- Participation in television and radio programs by GCCC magistrates.

Also, in 2016, the GCCC produced the children's book on corruption, entitled "Lilito at School", and it constitutes a complementary means in the formal educational process, aimed at influencing the student's formation in the ethical-moral component. With a print run of 50,000 copies, the children's book that was delivered to the Ministry of Education and Human Development and is intended for students in the first cycle of schooling and, in a first phase, will be distributed in primary schools in the Maputo City and Province. The activity was conducted through a consultant funded by the United Nations Office on Drugs and Crime (UNODC) and, to cover all primary schools in the country, the GCCC is mobilizing funds for this purpose from the partners Cooperation.

As part of the actions coordinated with Ministry of Education and Human Development, the contest "Best Poster on Corruption" was held, in which all members of the anti-corruption nucleus of schools participated, under the supervision of Portuguese-speaking teachers, Drawing and Geometry. The winning poster will be adopted and publicized as the symbol of prevention and combat corruption in the year 2017.

d) Freedom to seek, receive, publish and dissemination information concerning corruption.

In 2009, a survey was carried out to evaluate the satisfaction of citizens with public services, covering 12 public administration services: licensing and certification of commercial activity; commercial registration; school enrolment; birth registration; criminal records; external consultations in hospitals; tax services; licensing of contractors; land certificates; certificates for the right of use; licensing of tourist activity; and issuance of driving licenses. The results of this survey were analysed in the light of Mozambique's performance on international indicators, such as the Corruption Perception Index and the Doing Business and e-Government Index, leading then to strategic efforts to improve these areas.

The freedom of press and media in Mozambique is governed by a dedicated law from 1991. Several reports by independent organizations have confirmed that the independence of press and media in Mozambique exists.

The GCCC is well-known to the public, not only at the institutional but also personal level – the GCCC staff are also very well publicly known.

(b) Observations on the implementation of the article

No specific legislation or rules exist on the involvement of society in decision-making processes; however, there is a practice of conducting consultations or round tables with civil society and the private sector during the legislative process.

Access to information is ensured through the Right to Information Act.

The GCCC undertakes various public information activities that contribute to non-tolerance of corruption, including TV and radio advertisements, campaigns, leaflets, press messages, lectures and other awareness-raising material. With regard to education programmes, the GCCC cooperates with the Ministry of Education under the Memorandum of Understanding signed in August 2014. This cooperation has thus far resulted in the establishment of several anti-corruption centres at schools, the organization of the writing and art anti-corruption contests and the development of an anti-corruption book for children. Efforts are being undertaken to include anti-corruption content into school curricula. The GCCC is currently providing training to teachers and institutions in this area.

A 2009 national anti-corruption survey has revealed the public perception of corruption in Mozambique and led to further strategic efforts in the problematic areas. The freedom of press and media is governed by a dedicated law.

It is recommended that Mozambique continue enhancing the transparency of decision-making processes and taking legislative and practical measures to allow the public to participate. With a view to ensuring that the access to information is effective, it is recommended that Mozambique ensure the effective application of the Right to Information Act and provide guidance to public officials and the public.

(c) Successes and good practices

The review team recognized as a good practice the broad range of activities in schools aimed at preventing corruption, including the establishment of anti-corruption centers, the organization of contests, the development of a children book, the efforts to include anti-corruption content into curricula, and training of teachers.

Paragraph 2 of article 13

2. Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

The GCCC is well-known to the public, not only at the institutional but also personal level – the GCCC staff are also very well publicly known.

The Law 6/2004 which creates the GCCC establishes a mechanism for anonymous reports, applicable not only to public officials but also to the public in general.

Law no 6/2004 on GCCC

Article 12 (Initiative of procedure)

5. Any person may request the competent administrative, police and prosecutor's office to initiate an investigation to ascertain facts relating to the crimes provided for in this Law.
6. The complaint or denunciation is written or reduced in term and signed, or in the form of anonymity and contains the information about the facts, its authorship and the evidence of which it has knowledge.
7. The complaint or denunciation shall be dismissed, in a reasoned order, if it does not observe the provisions of the preceding paragraph, without prejudice to the right of the Public Prosecutor to take other initiatives for the investigation and prosecution of the cases denounced.
8. The Attorney General's Office may order the investigation of crimes provided for in this Law, provided that it is aware of any other mechanism.

Article 13 (Protection of whistleblower)

1. No complainant or whistle-blower may be subject to disciplinary action or impaired in his professional career or in any way, be prosecuted as a result of the complaint or reports of crimes of corruption.
2. Anyone who violates the provisions of the previous number will be punished with a prison term of up to six months and a month of fine.

In addition, 'green lines' have been established, providing access of the private sector to the GCCC and other bodies with anti-corruption mandates.

(b) Observations on the implementation of the article

The Law 6/2004 on the GCCC provides for an anonymous reporting procedure applicable not only for public officials but also to the public in general (art. 12 and 13). In addition, the so-called 'green lines' have been established, providing access of the private sector to the GCCC and other bodies with anti-corruption mandates. The GCCC appears to be well-known to the public thanks to its broad range of awareness-raising and educational activities.

As no information has been provided on the effectiveness of the reporting mechanisms, **it is recommended that Mozambique ensure the effectiveness of the anonymous GCCC's reporting hotline and 'green lines', including through raising awareness and an effective follow-up to the complaints received.**

(d) Challenges, where applicable

We need to establish other ways of publicizing our anti-corruption unit.

(e) Technical assistance needs

Mozambique indicated the following technical assistance needs:

Institution-building.

Policymaking.

Capacity-building.

Article 14. Measures to prevent money-laundering

Subparagraph 1 (a) of article 14

1. Each State Party shall:

(a) Institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer and, where appropriate, beneficial owner identification, record-keeping and the reporting of suspicious transactions;

(a) Summary of information relevant to reviewing the implementation of the article

The anti-money laundering law (Law 14/2013 of 12 August 2013, hereinafter “AML Law”) establishes a set of requirements for financial and non-financial institutions and provides for the supervision and regulation of the entities that are subjects of AML preventive measures.

Entities subject to such measures are listed under article 3 of the Law and supervisory entities are listed under article 27.

Customer identification and verification is detailed under article 10. Entities must also collect information on the object and nature of the business relationship and verify the identity of the beneficial owner.

The AML Regulation (Decree No 66/2014 of 29 October) organises a risk management system by creating a customer risk profile.

The Law No 14/2007 of 27 June (FIU Law) establishes the Mozambican Financial Information Office (GIFiM) with the purpose of collecting, centralizing, analysing and disseminating the competent entities the information regarding economic and financial operations liable to constitute acts of money laundering and related crimes (article 2).

In accordance with Article 18 of the AML Law, the entities subject to the AML regime are required to communicate to the GIFiM the suspicious transactions. Under the terms of article 23 whenever there are grounds that a certain operation is suspicious and may constitute the crime of laundering, the financial or non-financial entity shall abstain from performing any operations related to the client's request.

Pursuant article 20 of the AML Law, financial and non-financial institutions should cooperate with judicial authorities and GIFiM by providing information on operations carried out by their clients or by presenting documents related to their operations, assets, deposits or any other amounts under their responsibility.

Mozambique cited the following legislation and provisions:

Anti-Money Laundering Law No 14/2013 of August 12

Article 3 – Scope

1. This Law applies to financial and non-financial institutions based in the Mozambique territory, as well as to their branches, agencies, subsidiaries, or any other form of representation and other institutions susceptible of being involved in money laundering and financing terrorism.
2. For the purposes of this Law, financial institutions are:
 - a. Credit institutions and financial companies defined by law;
 - Credit institutions
 - i. Banks;
 - ii. Leasing companies;
 - iii. Credit unions;
 - iv. Factoring companies;
 - v. Investment companies;
 - vi. Micro banks in various types permitted by the applicable legislation;
 - vii. Electronic money institutions;
 - viii. Other companies that are classified as credit institutions by a decree issued by the Council of Ministers.
 - Financial corporations:
 - i. Broker-dealers;
 - ii. Brokers;
 - iii. Management companies of investment funds;
 - iv. Property management companies;
 - v. Corporate venture capital;
 - vi. Management companies of group purchasing;
 - vii. Issuing or management companies of credit cards;
 - viii. Bureau de change;
 - ix. Discount houses;
 - x. Other companies that are classified as financial corporations by a decree issued by the Council of Ministers
 - b. Micro-finance operators defined by law;
 - c. Insurance, reinsurance, fund management companies, pension insurance intermediaries, other investment entities relating thereto;
 - d. Stock exchange
 - e. Any other persons or entities engaged in other activities or operations which may be classified as such by specific legislation.
3. Non-financial entities are:
 - a. Casinos and institutions engaged in gaming and gambling;

- b. Entities engaged in real estate and the purchasing and reselling of real estate and construction companies engaged in direct selling of real estate;
 - c. Agents or dealers in precious metals and stones;
 - d. Car dealers;
 - e. Lawyers, notaries, and independent legal professionals, accountants and auditors when involved in transactions on behalf of their clients or otherwise, relating to the following activities:
 - i. Buying and selling of real estate;
 - ii. Management of client money, securities or other property belonging to the client;
 - iii. Management of term deposits or securities accounts;
 - iv. Management of funds destined for establishment of companies;
 - v. Setting up, managing or exploring of legal persons or arrangements, and buying and selling of business entities;
 - f. Postal companies, as long as they carry out activity;
 - g. Suppliers of services to trusts funds and companies, not covered by the preceding paragraphs, which supply the following services on a commercial basis;
 - i. Setting up, registration and management of legal persons;
 - ii. The exercise of the office, or acting for another person to exercise the office of director or secretary of a company, a partner of a company or a similar position in relation to other legal persons;
 - iii. Provision of office facilities or address for a company, firm or person or any legal arrangement;
 - iv. Holding the position of, or acting for another person to exercise the office of shareholder on behalf of others;
 - v. Import and export of goods.
4. This law also applies to branches, agencies, subsidiaries, or any other form of representation of financial and non-financial institutions domestically established abroad, as well as the representations of national entities located abroad.

Article 10 – Requirement to identify and verify

- 1. Financial institutions and non-financial institutions must identify their customers and verify their identity through a valid document in the following situations:
 - a. Establishing a business relationship;
 - b. Carrying out an occasional transaction equal to or above four hundred and fifty thousand Meticaís;
 - i. If at the commencement of the transaction, the entire amount is not known, the financial institution should identify as soon as it has knowledge of this amount and check if the threshold has been reached;
 - ii. In cases of transfer of funds domestic or internationally

- c. There is a suspicion that the transactions, regardless their value, are related to money laundering offence or terrorist financing;
 - d. There are doubts about the authenticity or adequacy of customer's identification.
2. Financial and non-financial institutions must also:
 - a. Gather information about the purpose and nature of the business relationship;
 - b. Identify the beneficial owner and take reasonable steps to verify his/her identity;
 - c. Maintain a continuous diligence of the business relationship and closely examine the transactions in the course of that relationship by checking whether they are consistent with the knowledge that the institution has about the customer, his/her business and risk profile, including, if necessary, the source of funds;
 - d. Establish systems of risk management to ascertain if their customers or beneficial owners of the operations are politically exposed persons;
 - e. Establish policies and procedures to address specific risks related to business relationships or occasional transactions without the physical presence of the customer;
 - f. Refuse the beginning of the business relationship, as well as the completion of any transactions that do not meet the requirements set out in the preceding paragraphs and in paragraph 1 of this Article, according to objective criteria;
 - g. Take appropriate measures to understand the ownership and control structure of the customer, when it is a legal person or a collective centre of interest without a legal arrangement;
 - h. Keep the information obtained in the course of the business relationship up to date;
 - i. Refrain from keeping anonymous accounts or with fictitious identifiers.
3. In cases referred to in paragraph d) above, financial and non-financial institutions are also required to:
 - a. Seek for authorisation from competent management before establishing business relationships with such customers;
 - b. Take the necessary measures to assess the source of wealth and funds involved in the business relationships or occasional transactions;
 - c. Carry out continuous monitoring of the business relationship.
4. The identification of individual customers should be proven by presentation of identification card and other relevant documents to be defined in a regulation.
5. Notwithstanding the above paragraph, in exceptional cases, supervisors may define other valid forms of identification.
6. The identification of legal persons is effected through the presentation of a certificate of registration and other documentation in accordance with the regulations.
7. The situations referred to in item f) of paragraph 2 shall be reported to the Financial Intelligence Unit (GIFIM).
8. With regard to cross-border relations between corresponding banks and other similar relationships, financial institutions must identify and verify the identity of the correspondent bank.

Article 11 – Timing for verification of identity

The verification of the identity of the customer, their representatives and, where applicable, the beneficial owner is made when a business relationship is established or before any occasional transaction is carried out.

Article 17 – Record keeping

1. It is mandatory for financial and non-financial institutions to keep identification documents and others related to transactions, over a period of 15 years from the date of closing the accounts or termination of the business relationship with their customers.
2. The characteristics of suspicious transactions are:
 - a. Set out in writing and maintained by the financial and non-financial institutions in accordance with paragraph 1 of the Article and whenever the operations exceed the amount referred to in item b) of paragraph 1 of Article 10 of this Law.
 - b. Mention the origin and destination of the funds as well as the identity of the beneficiary and the justification of the transactions;
 - c. Allow for the reconstruction of transactions.
3. Financial institutions and non-financial entities should ensure that the requirement to keep documents relating to transactions defined in the preceding paragraph of the Law is applicable to branches, agencies or any other form of commercial representation in the territory of Mozambique whose headquarters are abroad.
4. All financial institutions and non-financial entities operating in Mozambique must keep accurate information about the beneficial owners of the transactions.

Article 27 – Supervisory authorities

The supervision of financial institutions and non-financial entities on issues related to prevention and combating of money laundering is carried out by the following supervisory authorities:

- a. Bank of Mozambique, regarding the entities referred to in points a), b) and d) of paragraph 2 of article 3 of this law;
- b. Institute of insurance Supervision of Mozambique, regarding the entities referred to in subparagraph c) of paragraph 2 of article 3 of this law;
- c. General gaming inspectorate regarding the entities referred to in subparagraph a) of paragraph 3 of article 3 of this law;
- d. Bar association of Mozambique, regarding lawyers;
- e. Other entities by their respective supervisors, monitoring, and control
- f. GIFIM, regarding all institutions and entities that are not subjected to any supervisory authority.

Decree N°66/2014 of 29 October – Regulation of Law 14/2013 of August 12

Article 8 – Beneficial owners of legal entities

1. The commercial entities, civil societies in a commercial form, associations, foundations, partnerships, cooperatives, representations of foreign and domestic entities, and other entities subject to registration under the law, shall, in appropriate model, keep up-to date information concerning to:
 - a. Identification of the owners of 20 percent or more of the legal entity's share capital and voting rights;
 - b. Identification of the members of the management bodies, attorneys, and representatives;
 - c. Documents substantiating the information mentioned above, such as minutes, certificates of registration or other documentation in the entity's possession.
2. The information referred to in paragraph 1 of this Article shall, pursuant to paragraph 2 of Article 36 of Law 14/2013 of 12 August, be made immediately available upon request and without delay to the Judicial Authorities, the Attorney General's Office, the supervisory authorities, and the Financial Intelligence Unit of Mozambique (GIFiM).

Article 14 – simplified identification and verification measures

1. Except in cases where there is a suspicion of money laundering, financing terrorism and predicate offences, financial institutions and non-financial entities may waive the obligations defined in Article 6 and 7 of this regulation in case of:
 - a. The State or a legal entity under public law, of any kind, forming part of central or local administration;
 - b. Any authority or public body required to maintain transparent accounting practices and subject to monitoring; and
 - c. Entities to be specified by the supervisory authorities.
2. In the cases referred to in paragraph 1 c) of this article, the supervisory authorities shall take into account the evaluation of the risk of money laundering and terrorist financing in their respective sectors of activity.

Article 15 – duty to create the customer risk profile

1. Financial institutions and non-financial entities should have adequate systems for creating a risk profile for each customer.
2. The risk assessment of money laundering and terrorist financing associated with a customer should take, among others, the following factors into account:
 - a. Nature of the customer;
 - b. Nature of the customer's business
 - c. Mode of establishment of the business relationship;
 - d. Geographical location of the customer and its business, if applicable;
 - e. Transactions executed;
 - f. The customer's history;
 - g. Goods and services purchased;

- h. Types of the financial and non-financial institution's services and products used by the customers
 - i. Types of the financial or non-financial institution's distribution channels used by the customer.
3. The customers' risk profile should be evaluated regularly and whenever changes occur in the transactions undertaken by them.

Law No 14/2007 of 27 June establishing the Mozambican FIU

Article 1 – Creation, extent and nature

- 1. The Cabinet of Financial Information of Mozambique is created briefly designated by GIFiM
- 2. GIFiM is an organ of the State, of national extent, endowed with administrative autonomy and it works under protection of Council of Ministers.

Article 2 - Functions

- 1. Are functions of GIFiM to collect, centralize, analyse and diffuse to the competent entities information related to financial economic operations susceptible of acts of money laundering and other related crimes.
- 2. For the exercise of their functions, the GIFiM in accordance with regulated norms is authorized:
 - a. To request information to the entities referred in article 11 of the present law, including the one that seek to identify possible goods and value to be frozen or declared lost in favour of the State;
 - b. To exchange or disseminate information to other domestic authorities as provided by the law;
 - c. To exchange information with their foreign congeners, by own initiative or at the request of these.
- 3. The request referred in the paragraph a) of the previous number has for objective to contribute in the analysis of the communications received previously, as well as to answer the received request of foreign congeners.
- 4. Constitute functions of the GIFiM in the extent of prevention and combat against the crimes foreseen in the present law:
 - a. To accomplish studies on the techniques used in its undertaking;
 - b. To accomplish and to collaborate in formation actions;
 - c. To collaborate with the several supervision authorities in control of the execution of the pertinent legislation;
 - d. To emit information and opinions to be requested by the competent entities.

(b) Observations on the implementation of the article

Reviewing experts note that the AML Law as adopted in 2013 established the legal framework for the AML preventive measures, including regulatory and supervisory regime. Article 27 of the AML Law lists the supervisory authorities depending on the categories of entities subject to supervision.

In that regard, the experts noted that GIFiM is considered as the supervisory entity for all entities that are not subject to any other supervisory entity. This provision seemed to be not entirely clear as GIFiM could potentially become the supervisory authority to a large number of entities.

Regarding the scope of the law, preventive measures are applicable to financial and non-financial authorities (DNFBPs). However, DNFBPs' list is exhaustive as the article does not provide for a catch-all provision. This creates a risk that some entities may fall outside the regulatory and supervisory regime under the AML Law.

The regulation seems to implement a risk-based approach (RBA) by the obligation of creating a customer risk profile. However, the law remains silent on this topic. The reviewing experts remained skeptical on the existence of an RBA in Mozambique.

Therefore, the reviewing experts concluded that Mozambique is partially compliant with the provisions of the Convention under review. **It is recommended that Mozambique insert a catch-all provision for DNFBPs in order to ensure that the regulatory and supervisory regime of the AML Law will always be applicable to all professions exposed to the risk of money laundering and consider establishing clearly an RBA.**

Also, **Mozambique should consider establishing a single financial supervisory authority, or entrusting that role to the Bank of Mozambique and providing it with the necessary resources.**

Subparagraph 1 (b) of article 14

1. Each State Party shall: ...

(b) Without prejudice to article 46 of this Convention, ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering (including, where appropriate under domestic law, judicial authorities) have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed by its domestic law and, to that end, shall consider the establishment of a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential money-laundering.

(a) Summary of information relevant to reviewing the implementation of the article

Mozambique is a member of Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) that was created to combat money laundering by implementing the FATF Recommendations. ESAAMLG members participate in a self-assessment process to assess their progress in implementing the FATF Forty Recommendations. Mozambique participated in such process in 2011. The second process is planned for 2019.

The Law No 14/2007 of 27 June (FIU Law) established GIFiM which is entitled to cooperate and exchange information at national and international level. GIFiM has signed a number of MoUs with other countries but almost exclusively with regional FIUs. Mozambique has established a multi sectoral technical group called "Task Force" to share information among national bodies and organs. The Task Force is composed of the AGO, the GCCC, and technicians from various ministries and is chaired by GIFiM.

Mozambique cited the following legislation and provisions:

Law n° 14/2007 of 27 June, establishes the Mozambican FIU

Article 2 - Functions

1. Are functions of GIFM to collect, centralize, analyse and diffuse to the competent entities information related to financial economic operations susceptible of acts of money laundering and other related crimes.
2. For the exercise of their functions, the GIFiM in accordance with regulated norms is authorized:
 - a. To request information to the entities referred in article 11 of the present law, including the one that seek to identify possible goods and value to be frozen or declared lost in favour of the State;
 - b. To exchange or disseminate information to other domestic authorities as provided by the law;
 - c. To exchange information with their foreign congeners, by own initiative or at the request of these.
3. The request referred in the paragraph a) of the previous number has for objective to contribute in the analysis of the communications received previously, as well as to answer the received request of foreign congeners.
4. Constitute functions of the GIFiM in the extent of prevention and combat against the crimes foreseen in the present law:
 - a. To accomplish studies on the techniques used in its undertaking;
 - b. To accomplish and to collaborate in formation actions;
 - c. To collaborate with the several supervision authorities in control of the execution of the pertinent legislation;
 - d. To emit information and opinions to be requested by the competent entities.

AML Law No 14/2013 of August 12

Article 48

1. The competent authorities should promote the broadest possible cooperation with the competent authorities of other states for the purposes of extradition and mutual legal assistance in relation to criminal investigations and procedures related to money laundering and terrorist financing.
2. Dual criminality should be deemed fulfilled regardless of the requesting State subsume the offense within the same category of offence or criminalizing the same way as Mozambique, admitting that in both countries the conduct underlying the offence for which cooperation is sought is criminalized.

Memoranda of Understanding (MoUs) signed by Mozambique FIU: Angola, Cabo Verde, Botswana, Ethiopia, Lesotho, Malawi, Namibia, Brazil, South Africa, Swaziland, Uganda, Zambia and Zimbabwe.

(b) Observations on the implementation of the article

The reviewing experts note that the AML laws and regulations entitle GIFiM to cooperate and exchange information directly with foreign FIUs.

During the Country Visit, Mozambique specified that GIFiM was also in the process of becoming a member of the Egmont Group.

Mozambique also explained that MoUs with other FIUs are not necessary to provide cooperation and exchange information. Spontaneous disclosures have already been received from FIUs with which GIFiM didn't have any MoU. However, in the absence of a MoU, Mozambican GIFiM and authorities will decide if they will cooperate and may decide not to share the information.

Regarding the national cooperation, Mozambique has established a multi sectoral technical group called "Task force" and which was created to share information among national bodies and organs. The Task force is composed by the AGO, the GCCC, technicians from various ministries and is chaired by GIFiM.

Reviewing experts considered that Mozambique was mainly in compliance with the provision of the Convention under review and considered that the establishment of the Task Force was a good practice. However, given that in the absence of MoU, Mozambique is not obliged to provide cooperation, they regretted that MoUs were almost exclusively signed with regional FIUs.

Therefore, it is recommended that Mozambique endeavour to adopt more MoUs between GIFiM and other national FIUs outside the Regional Group and to make sure that GIFiM becomes a member of the Egmont Group.

(c) Successes and good practices

Mozambique has created a task force composed by AGO, GCCC, technicians from various ministries and chaired by GIFiM.

Paragraph 2 of article 14

2. States Parties shall consider implementing feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, subject to safeguards to ensure proper use of information and without impeding in any way the movement of legitimate capital. Such measures may include a requirement that individuals and businesses report the cross-border transfer of substantial quantities of cash and appropriate negotiable instruments.

(a) Summary of information relevant to reviewing the implementation of the article

Mozambique states that it has implemented the provision.

Mozambique regulates cross-border transfers of foreign currency and negotiable instruments. A declaration to the customs authorities is required for anyone entering or leaving Mozambique with foreign currency equal to or greater than USD 5, 000 (article 24 of the AML Law). The declaration as well as failures to declare shall be reported to GIFiM (article 36 of Regulation of Law 14/2013).

The declaration shall contain the date, origin and destination, indication of the place where the notification takes place, denomination of the currency, declared value, and in the case of bearer securities or other monetary instruments, its type, value, issuer, date, serial number or other identification number.

Mozambique cited the following provisions:

AML Law No 14/2013 of August 12

Article 24 – Declaration upon entrance or exit

1. Anyone entering or leaving the territory of Mozambique, being a holder of foreign currency and bearer negotiable instruments, equal to or greater than the amount established in the foreign exchange legislation, should declare to the customs authorities.
2. It is the duty of the Revenue Authority of Mozambique through the Customs Services to supervise compliance with the requirement referred to in the preceding paragraph.
3. The declaration referred to in paragraph 1 shall be reported to GIFiM by customs services
4. Customs or other competent authorities should seize the amount or instruments when:
 - a. There is no declaration or there is false cash declaration and other negotiable instruments;
 - b. There is a reasonable ground for suspicion of money laundering or terrorist financing.
5. The documentation collected by the Customs services should be kept for a period not less than 15 years.
6. In the cases provided for in paragraph a) of paragraph 4 of this law the sanctions measures set out in the foreign exchange legislation are applicable.

Glossary:

Bearer negotiable instrument – Include bearer monetary instruments such as traveller checks, negotiable instruments (including checks, promissory notes and money orders) that are issued in bearer form, endorsed without restriction, made to a fictitious payee or so that ownership is transferable with the simple delivery; incomplete instruments (including checks, promissory notes and money orders) signed, but that is missing the name of the recipient.

Decree N°66/2014 of 29 October – Regulation of Law 14/2013 of August 12

Article 36 – Declaration to Customs

1. The tax Authority of Mozambique, through the Directorate General of Customs, must notify the GIFiM of any declaration of entry or exit of national or foreign currency, bearer securities or coined gold or bullion, in an amount of above 150.000,00 Meticals.
2. The GIFiM must also be notified of all cases of failure to declare detected by the Tax Authority of Mozambique and cases where false statements have been made.

3. The Minister who oversees the area of finance shall update the values specified in paragraph 1, above.

Article 37 – Content of the notification

The notification referred to in the preceding paragraph shall contain the following information:

- a. The date referred to in the paragraph a) of Article 14
- b. Origin and destination
- c. Indication of the place where the notification takes place;
- d. Denomination of the currency;
- e. Declared value;
- f. In the case of bearer securities or other monetary instruments (type, value, issuer, date, serial number or other identification number).

Foreign Exchange Law No 11/2009 of March 11

Article 8

1. The entry into the national territory of foreign currency as well as other means of payment abroad is free, however respective amounts shall be subject to declaration requirement whenever they exceed the limits established in the respective regulation.
2. The exist of foreign currency as well as other means of payment abroad is free for non-residents, up to the limit declared at entry in the country, under the terms of preceding paragraph.
3. The exit of foreign currency as well as other means of payment abroad is free for residents, though they shall prove retention and legitimate ownership through a document issued by the authorized foreign exchange operator. Within the limits set out in the respective regulations.

Article 29

The Cabinet of Ministers shall be responsible for regulating the matters established in the present Law within one hundred and eighty days after its publication.

The Cabinet of Ministers' Decree No 83/2010 of 31 December

Article 104

1. The physical entry or exit of foreign banknotes and coins in the country shall be limited to the amount equivalent to USD 5,000.0 (five thousand American dollars), which shall not require any declaration.
2. The exit of cash deriving from gambling winnings, as proved under the terms established in paragraph 4 of the article 112 of the present Regulation, shall not be subject to the limit established under the preceding number.

(b) Observations on the implementation of the article

The reviewing experts note that Mozambique adopted some measures to monitor cross-border

cash and negotiable instruments movements. A declaration has been established and all persons who enter or leave Mozambique with more than 150.000 Meticals (approximately 5.000 USD) must declare it to the Customs. The declaration is sent to GIFiM.

However, while the AML Regulation expressly applies such procedure to all currencies, AML Law remains unclear about the application of the declaration process to the national currency.

Therefore, **it is recommended that Mozambique consider ensuring that the declaration of cross-border transfers is not limited to foreign currencies only.**

Paragraph 3 of article 14

3. States Parties shall consider implementing appropriate and feasible measures to require financial institutions, including money remitters:

(a) To include on forms for the electronic transfer of funds and related messages accurate and meaningful information on the originator;

(b) To maintain such information throughout the payment chain; and

(c) To apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator.

(a) Summary of information relevant to reviewing the implementation of the article

Mozambique has stated that financial institutions, including those engaged in the transfer of funds should require and verify accurate and useful information on the sender and the beneficiary, on funds transfer and related messages to them. The information must accompany the transfer related message, throughout the payment chain (article 15 of AML Law).

If the sender does not have bank accounts, financial institutions, including those engaged in the transfer of funds, should conduct thorough and appropriate due diligence, in order to detect suspicious activities and assign a unique reference number of transactions, to enable tracing of operation (article 15 of AML Law).

It is mandatory for financial and non-financial institutions to keep identification documents and others related to transactions, over a period of 15 years from the date of closing the accounts or termination of the business relationship with their customers.

Financial institutions and non-financial entities should ensure that the requirement to keep documents relating to transactions is applicable to branches, agencies or any other form of commercial representation in the territory of Mozambique whose headquarters are abroad.

All financial institutions and non-financial entities operating in Mozambique must keep accurate information about the beneficial owners of the transactions (article 17 of AML Law).

Mozambique indicated the following provisions:

AML Law No 14/2013 of August 12

Article 15 – wire transfer

1. Financial institutions, including those engaged in the transfer of funds should require and verify accurate and useful information on the sender and the beneficiary, on funds transfer and related messages to them
2. The information referred to above must accompany the transfer related message, throughout the payment chain.
3. If the sender does not have bank accounts, financial institutions, including those engaged in the transfer of funds, should conduct thorough and appropriate due diligence, in order to detect suspicious activities and transfers of funds that do not contain all the necessary information about the sender and the beneficiary and assign a unique reference number of transactions, to enable tracing of operation.
4. The preceding paragraphs shall not apply to the following cases:
 - a. In the case of a transaction using a credit card or debit card or prepaid for the purchase of goods or services, provided that the transaction conducted in association with the identification number of the card;
 - b. In the case of transfers made between financial institutions and their respective settlement, acting both the sender and the beneficiary in their own name;
 - c. In the case of transactions up to a maximum of thirty thousand meticaais.

Article 17 – Record keeping

5. It is mandatory for financial and non-financial institutions to keep identification documents and others related to transactions, over a period of 15 years from the date of closing the accounts or termination of the business relationship with their customers.
6. The characteristics of suspicious transactions are:
 - a. Set out in writing and maintained by the financial and non-financial institutions in accordance with paragraph 1 of the Article and whenever the operations exceed the amount referred to in item b) of paragraph 1 of Article 10 of this Law.
 - b. Mention the origin and destination of the funds as well as the identity of the beneficiary and the justification of the transactions;
 - c. Allow for the reconstruction of transactions.
7. Financial institutions and non-financial entities should ensure that the requirement to keep documents relating to transactions defined in the preceding paragraph of the Law is applicable to branches, agencies or any other form of commercial representation in the territory of Mozambique whose headquarters are abroad.
8. All financial institutions and non-financial entities operating in Mozambique must keep accurate information about the beneficial owners of the transactions.

Decree N°66/2014 of 29 October – Regulation of Law 14/2013 of August 12

Article 24 – Wire transfer

1. For wire transfers below 30.000 Meticaais, financial institutions should ensure that transfer include:

- a. The name of the originator;
 - b. The name of the beneficiary;
 - c. An account number for the originator and the beneficiary or a unique transaction reference number.
2. The above information does not need to be verified for accuracy unless there is a suspicion of money laundering or terrorist financing. In such cases the financial institution should verify the information pertaining to the customer and should consider making a suspicious transaction report.
3. Wire transfers equal or above to 30.000 Meticaís should always contain the following information:
- a. Name of the originator;
 - b. The originator account number in instances in which the account number is used to process the transaction;
 - c. The originator's address, or national identity number or customer identification number or date and place of birth;
 - d. The beneficiary account number in instances in which the account is used to process the transaction.
4. In the absence of an account number a unique transaction reference number which permits the transaction to be traced, should be used.

(b) Observations on the implementation of the article

AML Law and Regulation of AML Law contain provisions regarding the identification of the originator and the recipient of electronic transfers. The provision on record keeping included in article 17 of AML Law is applicable for such transfers.

However, the reviewing experts note that these provisions are only applicable to electronic transfers executed or hosted by financial institutions.

During the Country Visit, Mozambique specified that money remitters such as Western Union or Moneygram were obliged to have partnership with financial institutions in Mozambique and that no wire transfers could be done outside such channel (Hawala system is prohibited in Mozambique).

However, in light of the recent developments in electronic transfers that use new technologies such as mobile phones, the reviewing experts considered that these provisions were not sufficient enough to cover all present and future forms of electronic transfers.

Therefore, it is recommended that Mozambique consider implementing preventive measures, including related to the identification of the sender and the beneficiary, to all forms of electronic transfer, including outside financial institutions

Paragraph 4 of article 14

4. In establishing a domestic regulatory regime and supervisory regime under the terms of this article, and without prejudice to any other article of this Convention, States Parties are called upon to use as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering.

(a) Summary of information relevant to reviewing the implementation of the article

Mozambique is a member of Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) that was created to combat money laundering by implementing the FATF Recommendations. ESAAMLG members participate in a self-assessment process to assess their progress in implementing the FATF Forty Recommendations. Mozambique participated in such a process in 2011. The second process is planned for 2019.

In compliance with the recommendations of the International Financial Action Task Force, Mozambique adopted the guidelines on prevention and repression of money laundering and terrorist financing through the Central Bank's Notice n.4 / GBM / 2015.

These guidelines establish procedures and measures for the prevention and repression of money laundering and terrorist financing, applicable to all financial institutions.

(b) Observations on the implementation of the article

During the Country visit, Mozambique also specified that some guidelines were developed for the real estate sector with the support of IMF. The reviewing States parties welcomed this initiative and encouraged the Country to adopt these guidelines at its earliest convenience.

Paragraph 5 of article 14

5. States Parties shall endeavour to develop and promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money-laundering.

(a) Summary of information relevant to reviewing the implementation of the article

Article 48 of AML Law establishes the mechanism of international cooperation for the purpose of extradition and mutual assistance in respect of criminal investigations and procedures relating to money laundering and terrorist financing.

Mozambique indicated the following provisions:

AML Law No 14/2013 of August 12

Article 48

3. The competent authorities should promote the broadest possible cooperation with the competent authorities of other states for the purposes of extradition and mutual legal assistance in relation to criminal investigations and procedures related to money laundering and terrorist financing.
4. Dual criminality should be deemed fulfilled regardless of the requesting State subsume the offense within the same category of offence or criminalizing the same way as Mozambique, admitting that in both countries the conduct underlying the offence for which cooperation is sought is criminalized.

Memoranda of Understanding (MoUs) signed by Mozambique FIU: Angola, Cabo Verde, Botswana, Ethiopia, Lesotho, Malawi, Namibia, Brazil, South Africa, Swaziland, Uganda, Zambia and Zimbabwe.

Memoranda of Understanding (MoUs) signed with National authorities: Revenue Authority and Bank of Mozambique. Mozambique indicated that a MoU was in the process to be signed with the Criminal Investigation Police (SERNIC)

(b) Observations on the implementation of the article

Although Mozambique has had no sample cases of successful cooperation to date, the reviewers note that the necessary arrangements to do so are already in place.

Mozambique is in compliance with the provision of the Convention under review.

(c) Technical assistance needs

Mozambique has identified the following technical assistance needs in order to improve the implementation of the provision of the Convention under review:

- Institution-building
- Capacity-building

V. Asset recovery

Article 51. General provision

Article 51

1. The return of assets pursuant to this chapter is a fundamental principle of this Convention, and States Parties shall afford one another the widest measure of cooperation and assistance in this regard.

(a) Summary of information relevant to reviewing the implementation of the article

Mozambique's competent authorities must provide the broadest cooperation to the competent authorities of other States (article 48 of the AML Law, see above).

Mozambique has also signed multilateral instruments that cover asset recovery such as Convention on Mutual Assistance in Criminal Matters between the Members of the Portuguese Community, SADC Protocol against Corruption, African Union Convention on Preventing and Combating Corruption, United Nations Convention against Corruption.

Mozambique indicated the following provisions:

AML Law No 14/2013 of August 12

Article 40 – Confiscation of goods and rights

1. The Court, at the request of the public prosecutor, may in the final decision order the confiscation of funds and assets, rights and any other objects of illicit origin or intended for illicit activities, deposited in banks or other credit institutions, even in individual safes on behalf of the defendant or third parties.
2. It is ground of the illicit origin of funds, assets, rights and objects for the purpose of confiscation, its disproportion in relation to the defendant's income, the inability to determine the lawfulness of their origin, as well as falsity of the defendant's response to questions asked by Court on its economic and financial situation.
3. The evidence referred to above have alternate character; there is no cumulative relationship between them.

Article 41 – Process of confiscation

1. The process of confiscation referred to in this Act has the nature of civil suit.
2. The Request for confiscation is considered under the respective relevant criminal proceedings until the charges are brought out, they can only be in separate in a civil action as provided in the Code of Criminal Procedure, with the necessary adaptations.
3. The process of money laundering offence and request for confiscation are instructed on the basis of, the existence of the predicate offense and the illicit origin of the property respectively, and punishable by the facts provided in this Law, although the author of the offence might be unknown or exempt from punishment.

Article 48 – Duty to cooperate

1. The competent authorities should promote the broadest possible cooperation with the competent authorities of other states for the purpose of extradition and mutual legal assistance in relation to criminal investigations and procedures related to money laundering and terrorist financing.
2. Dual criminality should be deemed fulfilled regardless of the requesting State subsume the offense within the same category of offense or criminalizing the same way as Mozambique, admitting that in both countries the conduct underlying the offense for which cooperation is sought is criminalized.

(b) Observations on the implementation of the article

Mozambique does not have extensive experience with regard to international cooperation in criminal matters and has not adopted any specific text on MLA. At the time of the Country Visit, only the AML Law contained provisions with regard to international cooperation for the purpose of asset recovery and Mozambique has never received any request.

Furthermore, Mozambique has not taken concrete measures in terms of entertaining requests for asset recovery, assessing genuineness of the requests and giving effect to its execution. This include the enactment of a legislation on asset recovery and also identifying authorities/institution to deal with such requests. Therefore, Mozambique is not fully compliant with the provision under review.

As this is a mandatory provision, **it is recommended that Mozambique adopt a legislation on asset recovery and also identify the authorities/institution responsible to deal with requests relating to asset recovery.** It may refer to the legislative guide of UNCAC and the Stolen Asset Recover Initiative (StAR) which is a partnership between the World Bank and the United Nations

Office on Drugs and Crime (UNODC), for guidance on the implementation of the different articles in this chapter.

Article 52. Prevention and detection of transfers of proceeds of crime

Paragraph 1 of article 52

1. Without prejudice to article 14 of this Convention, each State Party shall take such measures as may be necessary, in accordance with its domestic law, to require financial institutions within its jurisdiction to verify the identity of customers, to take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value accounts and to conduct enhanced scrutiny of accounts sought or maintained by or on behalf of individuals who are, or have been, entrusted with prominent public functions and their family members and close associates. Such enhanced scrutiny shall be reasonably designed to detect suspicious transactions for the purpose of reporting to competent authorities and should not be so construed as to discourage or prohibit financial institutions from doing business with any legitimate customer.

(a) Summary of information relevant to reviewing the implementation of the article

All financial and non-financial institutions must keep record of their customers (article 4 of the AML Regulation) and create the customer risk profile which should be evaluated regularly and whenever changes occur in the transactions undertaken by the customers (article 15 of the AML Regulation). Such institutions should determine the level of risk of certain customer but there is no specific provision regarding high value accounts.

Under article 10. 2 b) of the AML Law, and articles 7 and 8 of the AML Law Regulation all financial and non-financial institutions are required to identify beneficial owners of all accounts. However, article 8 of the Regulation only requires identifying all effective beneficiaries i.e. those that own 20 or more percent in the legal entity's share capital and voting rights.

The notion of beneficial owner is defined as person/persons who is/are owner/owners last or hold ultimate control of a client and/or the person in whose interest operation is performed. It also includes people who ultimately control a legal person or an entity without legal personality (the glossary of the AML Law and article 8 of the AML Regulation).

All legal entities are registered but the access to the registry is limited. GIFiM has access to the registry. All other authorities can access it as long as there are grounds to request such information. There is a specific regime for credit institution as they are registered with the central bank.

According to the Bank of Mozambique's Notice N°4/GMB/2015 providing for guidelines on the prevention and suppression of money laundering and financing terrorism (BM Notice), if the institution is not able to determine whether the customer is acting for a third party or not, this must be reported to GIFiM.

Politically Exposed Persons (PEPs) are defined as individuals who are or have been entrusted with prominent public functions, e.g., Heads of State or Government, senior political position, high government positions, judicial or military, senior executives of public companies and key employees of political parties, as well as immediate family members and persons known to have

relations of corporate or commercial nature with them. (glossary of AML Law). This definition covers national PEPs as well.

All financial and non-financial institutions must periodically update customer profiles and reflect if they become PEPs (subsection 14 (4) of BM Notice) and apply enhanced customer due diligence with regard to PEPs (art. 10 2(b) AML Law and 16 of AML Regulation).

AML Law No 14/2013 of August 12

Article 10 - "1. Financial institutions and non-financial entities shall identify their clients and verify their identity by means of a valid supporting document where:

- A) Establish a business relationship;
- B) carry out occasional transactions of an amount equal to or greater than 450 thousand meticaï;
- C) suspicions that operations, regardless of value, are related to the crime of money laundering or terrorist financing;
- D) doubts as to the veracity or adequacy of the customer's identification data;

article 10 no 2. " Financial and non-financial institutions shall also:

- A) Request information on the object and nature of the business relationship;
- B) identify the beneficial owner and take appropriate measures to verify his identity;
- C) to maintain a continuous monitoring of the business relationship and to examine in a timely manner the operations carried out in the course of that relationship, verifying that they are consistent with the institution's knowledge of the client, its business and its risk profile, including if necessary Origin of funds;
- D) establish risk management systems to determine whether its clients or the actual beneficiaries of the operations are politically exposed persons;
- E) establish policies and procedures designed to address specific risks related to business relationships or occasional transactions without the physical presence of the client.

Article 17 – Record keeping

1. It is mandatory for financial and non-financial institutions to keep identification documents and others related to transactions, over a period of 15 years for the date of closing the accounts or termination of the business relationship with their customer.
2. The characteristics of suspicious transactions to be kept are:
 - a) Set out in writing and maintained by the financial and non-financial institutions in accordance with paragraph 1 of this Article and whenever the operations exceed the amount referred to in item b) of paragraph 1 of Article 10 of this Law;
 - b) Mention the origin and destination of the funds as well as the identity of the beneficiary and the justification of the transactions;

- c) Allow for the reconstruction of transaction.
- 3. Financial institutions and non-financial entities should ensure that the requirement to keep documents relating to transactions defined in the preceding paragraph of this Law is applicable to branches, agencies or any other form of commercial representation in the territory of Mozambique whose headquarters are abroad.
- 4. All financial institutions and non-financial entities operating in Mozambique must keep accurate information about the beneficial owners of the transactions.
- 5. Judicial authorities, supervisory, law enforcement, the GIFiM and other competent authorities should have access to information referred to in the preceding paragraph.
- 6. The supervisory authorities can exceptionally determine that the period for maintenance referred to in paragraph 1 of this Article be extended.

Glossary

Beneficial owner - person/persons who is/are owner/owners last or hold ultimate control of a client and/or the person in whose interest operation is performed. It also includes people who ultimately control a legal person or an entity without legal personality. Should cover:

- (b) In case the customer is a legal person:
 - (i) Natural persons ultimately own the ownership or control, directly or indirectly, less than 20% of the company's capital or voting rights of a legal person, other than a company listed on market regulated, subject to disclosure requirements consistent with international standards;
 - (ii) Individuals who, otherwise, exercise control over the management of the legal person.
- (c) In case the customer is a legal entity to administer and distribute funds:
 - (i) Natural persons in receipt of at least 20% of its assets when the future beneficiaries have already been determined;
 - (ii) the class of persons in whose main interest the entity was incorporated or carries on business, where the future beneficiaries have not yet been determined;
 - (iii) natural persons who exercise control less than 20% of the assets of the legal person.

Politically exposed persons – individuals who are or have been entrusted with prominent public functions, Heads of State or Government, senior political position, high government positions, judicial or military, senior executives of public companies and key employees of political parties, as well as immediate family members and persons known to have relations of corporate or commercial nature with them

- (a) Highest political or public positions
 - i. Head of State, heads of government and members of the Government, including ministers and deputy – ministers and secretaries of state;
 - ii. Members of chambers of parliament;

- iii. Judges of supreme courts, of constitutional courts, courts of accounts and other high-level judicial bodies whose decisions cannot be appealed, except in exceptional circumstances;
 - iv. Members of the administrative and supervisory body of central banks;
 - v. Heads of diplomatic missions and consular posts;
 - vi. Senior officers of the Armed Forces;
 - vii. Members of the executive body and supervision of public corporations such as, public institutions, public foundations, public, whatever the mode of their appointment, including senior management of the companies within the regional sectors and local business;
 - viii. Members of the secretariat of international organizations;
- (d) Close family members
 - i. The spouse or persons with whom they are living as partner;
 - ii. Parents, children and their spouses or person with whom they are living as partner;
 - (e) Persons with recognized and close corporate and commercial relationship:
 - i. Any natural person who is well known as a co-owner together with the holder of the high political or public position or public entity or a person with whom he has close trade relations;
 - ii. Any natural person who owns the share of capital or voting rights of a legal person or the property of a collective interest without being a legal arrangement, which is well known as having the sole beneficial owner being a holder of the high political or public position.

Shell bank – bank that has no physical presence in the country in which it is constituted and authorized, and which is unaffiliated with a regulated financial group subject to consolidated and effective supervision. The mere presence of a local agent or junior staff does not constitute physical presence.

Regulation of AML Law 14/2013 of August 12.

Article 8 – Beneficial owners of legal entities

1. The commercial entities, civil societies in a commercial form, associations, foundations, partnerships, cooperatives, representations of foreign and domestic entities, and other entities subject to registration under the Law, shall, in appropriate model, keep up-to-date information concerning to:
 - a) Identification of the owners of 20 percent or more of the legal entity’s share capital and voting rights;
 - b) Identification of the member of the management bodies, attorneys, and representatives;

- c) Documents substantiating the information mentioned above, such as minutes, certificates of registration or other documentation in the entity's possession.
2. The information referred to in paragraph 1 of this Article shall, pursuant to paragraph 2 of Article 36 of Law No 14/2013 of 12 August, be made immediately available upon request and without delay to the Judicial authorities, the Attorney General's Office, the supervisory authorities, and the Financial Intelligence Unit of Mozambique (GIFiM).

Article 16 – Politically exposed persons

1. Financial institutions or non-financial entities must apply enhanced due diligence measures in business relations or occasional transactions with Politically Exposed Persons (PEPs). Whether customers or beneficial owners, as follows:
 - a) Implement risk management systems to determine whether the customer or beneficial owner is a PEP;
 - b) Take the steps needed to verify the source of wealth and funds that may be used;
 - c) Obtain approval from the senior management to establish and maintain the relation or to undertake a specific transaction;
 - d) Conduct enhanced and ongoing monitoring of the business relation;
 - e) Adopt other measures as specified in Articles 4 and 5 of this Regulation more intensively;
 - f) Ascertain the reasons for the transactions undertaken by them;
 - g) Obtain authorization from senior management to conduct transactions originated by PEPs, in the case of amounts exceeding the thresholds specified in paragraph 3 of Article 18 of Law No 14/2013 of August 12.

Article 19 – Information to be kept

1. Financial institutions and non-financial entities shall maintain the following for a minimum period of 15 years after the end of the business relationship and closure of the account with respect to CDD records and 15 years after the date of the transaction with respect to transaction records:
 - a) Copies of documents proving fulfilment of the duty of identification and verification;
 - b) Sufficient records of domestic and international transactions to permit a reconstruction of each operation and provide evidence in a criminal case, if necessary;
 - c) All documentation related to transactions with correspondent banks;
 - d) Rationale for a decision by the Suspicious Transactions Reporting Officer (OCOS) to not notify GIFiM.
2. Financial institutions and non-financial entities shall ensure that all records relating to transactions and customers are available for consultation by the authorities permitted by law.
3. Said records shall be kept in original form, as mentioned in the foregoing article, as physical documents, for a minimum period of 5 years after the end of the business relationship and closure of the account or using any other technological process pursuant to terms to be established by the supervisory authorities.

Bank of Mozambique Notice No 4/GBM/2015

Chapter IV Section I – Registry of identity

All the documentation required by the financial institution, under this normative and other applicable legislation, to verify the identity of the clients and the effective beneficiaries must be

kept for a period, never less than 15 years after the closing of the account or termination of the business relationship with the respective client.

Opting for third-party services to do the verification of the procedures of identity or confirm the identity, the conservation of the document must be done under the preceding paragraph.

(b) Observations on the implementation of the article

The Reviewing States observe that Mozambique is in compliance with the provision under review as it has implemented legislative measures to verify and determine the identity of customers and beneficial owners of funds deposited into high-value accounts. There is an enhanced scrutiny of accounts sought or maintained by or on behalf of individuals entrusted with prominent public functions and their family members and close associates.

(c) Successes and good practices

The definition of PEPs includes national PEPs.

Subparagraph 2 (a) of article 52

2. In order to facilitate implementation of the measures provided for in paragraph 1 of this article, each State Party, in accordance with its domestic law and inspired by relevant initiatives of regional, interregional and multilateral organizations against money-laundering, shall:

(a) Issue advisories regarding the types of natural or legal person to whose accounts financial institutions within its jurisdiction will be expected to apply enhanced scrutiny, the types of accounts and transactions to which to pay particular attention and appropriate account-opening, maintenance and record-keeping measures to take concerning such accounts; and

(a) Summary of information relevant to reviewing the implementation of the article

The BM Notice and AML Law Regulation provide for advisories regarding conditions of enhanced scrutiny. The BM Notice contains detailed explanations on suspicious operations such as, inter alia, abnormal volume/amounts compared to normal activities of the client, rationality of the operation in the context of the client's business or personal activities, and, in case of international transfer, if there is any reason for the client to undertake business in the involved country (Chapter V, section I) and the categories of risks (Annex 1).

The BM Notice obliges all staff of financial institutions and non-financial entities to follow specific training on prevention and the fight against money laundering and terrorism financing. However, this Notice is limited to financial institutions.

The BM Notice also requests all institutions to check UN Security Council lists of sanctions on a permanent basis. Banks also use commercial screening tools. Mozambique is currently developing a regulation on how entities should operationalize UN sanctions.

The BM Notice also provides more detailed mechanisms for customer identification, including customer acceptance policies, customer identification and verification procedures, forms for opening individual and collective accounts, tax information, banks Correspondents, politically

exposed persons, national electronic transactions, account and transaction monitoring, reporting of suspect transactions, among others.

Mozambique has cited the following legislative measures implementing the provision under review:

Bank of Mozambique Notice No 4/GBM/2015

Chapter III - Section I - "The Financial institutions should adopt policies on the identification and verification of their costumer. The financial institutions policy "know your customer" should incorporate the following elements:

- A) Customer acceptance policy;
- B) The procedures of identification and verification of the client;
- C) Monitoring of operations and
- D) risk management.

Section II "The Financial institutions should develop a clear policy on customer acceptance, including measures applicable to each category of customer.

3. In essence, the policy of accepting customers should integrate, without limitation, the following:

- A) Prohibition of opening anonymous or fictitious accounts;
- B) Prohibition of opening numbered accounts;
- C) Categorization of the costumers according to the risk assessment carried out;
- D) Necessary documentation, additional information to be required and measures applicable for each category of customer, based on the risk assessment carried out;
- E) Enhanced diligence measures for the acceptance of high-risk customers;
- F) Circumstances in which the client is allowed to act on behalf of another, must be clear and in accordance with the legislation in force;

(b) Observations on the implementation of the article

The legislative measures that Mozambique has quoted requires financial institutions to adopt policies concerning identification and verification of customer including "know your customer" policy and elements to be integrated in the policies are also provided.

However, the provision under review requires issuing of advisories to financial institutions regarding the types of natural or legal person to whose accounts they are expected to apply enhanced scrutiny and pay particular attention. There is no clear instructions on the types of natural or legal persons whose accounts should be subject to enhanced scrutiny by financial institutions. Thus, information on measures provided are not in line with the requirements of the provision.

It is recommended that Mozambique issue advisories to all financial institutions regarding the type of natural or legal person to whose accounts they will be expected to apply

enhanced scrutiny and adopt a regulation on how entities should implement UN sanctions.

(c) Successes and good practices

The BM Notice obliges all financial institutions' staff to follow specific training on prevention and fight against money laundering and terrorism financing.

Subparagraph 2 (b) of article 52

2. In order to facilitate implementation of the measures provided for in paragraph 1 of this article, each State Party, in accordance with its domestic law and inspired by relevant initiatives of regional, interregional and multilateral organizations against money-laundering, shall:

...

(b) Where appropriate, notify financial institutions within its jurisdiction, at the request of another State Party or on its own initiative, of the identity of particular natural or legal persons to whose accounts such institutions will be expected to apply enhanced scrutiny, in addition to those whom the financial institutions may otherwise identify.

(a) Summary of information relevant to reviewing the implementation of the article

As stated above, a Financial Information Unit (FIU), known as the Financial Information Office (GIFiM) was established by Law 14/2007. The agency has the task of collecting, centralizing, analysing and disseminating the competent entities, information on economic and financial operations liable to constitute acts of money laundering and other related crimes. Pursuant to article 12 (a) of the decree no 62/2007, GIFiM is responsible for promoting regional and international cooperation with various specialized agencies on the prevention and combating of money laundering.

In these terms, in that context of cooperation GIFiM may receive and request notifications from other foreign entities related to requests for information from national financial entities on certain transactions.

On the other hand, Article 48 of AML Law states: 1. The competent authorities shall promote the widest possible cooperation with the competent authorities of other states for the purposes of extradition and mutual legal assistance in respect of criminal investigations and procedures relating to money laundering and terrorist financing.

In general terms, of the civil procedure code, the practice of judicial acts may be ordered or requested from other courts or authorities by means of a letter. The rogatory letter is used when the act is requested from a foreign authority (article 176, Civil Procedure Code).

There is no existing legislation on how the mechanism of communicating lists of entities and persons under UN sanctions to financial institutions should work as well as how to implement required measures such as freezing of assets. The Cabinet is currently reviewing for approval a draft law that would address this gap. Mozambique is also developing a regulation that would operationalize the UN sanctions.

(b) Observations on the implementation of the article

Reviewers observe that no information was provided to describe institutional and administrative measures in place to identify particular natural or legal persons to whose accounts financial institutions will be expected to apply enhanced scrutiny. Therefore, it is concluded that Mozambique is not in compliance with the requirements of the provision.

Paragraph 3 of article 52

3. In the context of paragraph 2 (a) of this article, each State Party shall implement measures to ensure that its financial institutions maintain adequate records, over an appropriate period of time, of accounts and transactions involving the persons mentioned in paragraph 1 of this article, which should, as a minimum, contain information relating to the identity of the customer as well as, as far as possible, of the beneficial owner.

(a) Summary of information relevant to reviewing the implementation of the article

Mozambique requires financial and non-financial institutions to keep records of transactions over a period of 15 years from the date of closing the accounts or termination of the business relationship (article 17 of AML Law). Supervisory authorities may exceptionally determine that the period be extended for PEPs for example (Article 17 (6) of the AML Law). Articles 18-20 of the Regulation of the AML Law provide further details on this obligation.

AML Law No 14/2013 of August 12:

Article 17:

It is mandatory to keep identification and transaction documents for a period of 15 years from the closing date of the accounts of the respective clients or from the termination of business relationship by financial institutions and non-financial entities.

Article 30:

"The competent supervisory authorities that detect the violation of the obligations provided by law, must impose the legally prescribed sanctions.

Regulation of the AML Law 14/2013 of August 12

Article 18 – Conservation of documents

1. The conservation of documents referred to under Article 17 of Law 14/2013 of August 12, may be fulfilled in physical or digital form, or on microfilm.
2. For purposes of the preceding paragraph, formalities shall be observed in the conservation process to ensure its regularity and authenticity, as well as good security conditions.

Article 20 – Conditions required for the registration and identification of customers

1. In the cases referred to in paragraph 3(b) of article 18 of Law 14/2013 of August 12, financial institutions and non-financial entities shall keep records of transactions containing the following information:

(a) Transfers

- i. Date and reference number of the transaction;

- ii. Transaction type, amount and currency;
 - iii. Details of instructions, including the beneficiary's name, address or account number;
 - iv. The name and address of the beneficiary's institution and the message from sender to recipient, if any;
 - v. Name and valid identification document of the senders or their representatives who attend in person at the institutions, the latter being required to check and record such documents and information;
 - vi. Beneficiary's name and valid identification, if the latter attends in person; the institutions being required to verify and record such documents and information; and
 - vii. Telephone number and full address of the sender.
- (b) Foreign exchange transactions in cash:
- i. Reference number of the transaction;
 - ii. Date and time of the transaction;
 - iii. Currency and amount transacted;
 - iv. Exchange rate used;
 - v. Customer's name, and number and type of identification document;
 - vi. Customer's telephone number and address.
2. For all other cash transactions, information similar to that described in the foregoing subparagraphs should be recorded.

Article 19 – Information to be kept

4. Financial institutions and non-financial entities shall maintain the following for a minimum period of 15 years after the end of the business relationship and closure of the account with respect to CDD records and 15 years after the date of the transaction with respect to transaction records:
- e) Copies of documents proving fulfilment of the duty of identification and verification;
 - f) Sufficient records of domestic and international transactions to permit a reconstruction of each operation and provide evidence in a criminal case, if necessary;
 - g) All documentation related to transactions with correspondent banks;
 - h) Rationale for a decision by the Suspicious Transactions Reporting Officer (OCOS) to not notify GIFiM.
5. Financial institutions and non-financial entities shall ensure that all records relating to transactions and customers are available for consultation by the authorities permitted by law.
6. Said records shall be kept in original form, as mentioned in the foregoing article, as physical documents, for a minimum period of 5 years after the end of the business relationship and closure of the account or using any other technological process pursuant to terms to be established by the supervisory authorities.

Bank of Mozambique Notice 4/GBM/2015:

Section II: The records of transactions, regardless of how they are used, must be kept for a period of not less than 15 years after the completion of the operations in question, in order to assist in

the investigation of cases of suspected money laundering and terrorist financing and shall include:

- A) Turnover made through the account;
- B) Origin of the funds, including all details of the client;
- C) The manner in which the funds were credited or debited from the account;
- (D) The identity of the person who carries out the transaction and the identity of the beneficial owner;
- E) Details of the counterparty;
- F) The destination of funds;
- G) The form of instruction;
- H) The time of the transaction;
- I) The type and identification number of any account involved in the transaction;
- J) Any other information that makes it possible to reconstitute the transaction.

(b) Observations on the implementation of the article

Mozambique requires financial institutions and non-financial entities to retain identification documents and data relating to transactions for a period of 15 years from the date of closure of the accounts of the respective clients or cessation of the business relationship. However, the enforcement mechanism is not clear.

Mozambique is compliant with the provision under review as it has legislatively implemented the provision under review.

(c) Successes and good practices

Records of transactions, accounts and CDD must be kept during 15 years after the operations or the closure of business.

Paragraph 4 of article 52

4. With the aim of preventing and detecting transfers of proceeds of offences established in accordance with this Convention, each State Party shall implement appropriate and effective measures to prevent, with the help of its regulatory and oversight bodies, the establishment of banks that have no physical presence and that are not affiliated with a regulated financial group. Moreover, States Parties may consider requiring their financial institutions to refuse to enter into or continue a correspondent banking relationship with such institutions and to guard against establishing relations with foreign financial institutions that permit their accounts to be used by banks that have no physical presence and that are not affiliated with a regulated financial group.

(a) Summary of information relevant to reviewing the implementation of the article

The AML Law No 14/2013 prohibits establishing shell banks and prevents local banks from entering into relationships with foreign financial institutions that allow their accounts to be used by shell banks (article 34 of AML Law and chapter III, section 2 of BM Notice).

The glossary of the AML Law defines shell banks as banks that have no physical presence in the country in which they are constituted and authorized, and which are unaffiliated with a regulated financial group subject to consolidated and effective supervision. The mere presence of a local agent or junior staff does not constitute physical presence.

AML Law No 14/2013 of August 12:

Article 34:

1. It is forbidden to establish covert banks or banks that do not keep their continuous activity in Mozambique.
2. The financial institutions shall refrain from establishing relationships with foreign financial institutions that allow their accounts to be used by covert banks.

Glossary

Shell bank – a bank that has no physical presence in the country in which it is constituted and authorized, and which is unaffiliated with a regulated financial group subject to consolidated and effective supervision. The mere presence of a local agent or junior staff does not constitute physical presence.

(b) Observations on the implementation of the article

Mozambique is compliant with the requirements of the provision under review as it has taken legislative measures that prohibit establishing shell banks and prevent local banks from entering into relationships with foreign financial institutions that allow their accounts to be used by shell banks.

Paragraph 5 of article 52

5. Each State Party shall consider establishing, in accordance with its domestic law, effective financial disclosure systems for appropriate public officials and shall provide for appropriate sanctions for non-compliance. Each State Party shall also consider taking such measures as may be necessary to permit its competent authorities to share that information with the competent authorities in other States Parties when necessary to investigate, claim and recover proceeds of offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Public officials are required to make a declaration of assets by Law No. 4/1990. However, that provision does not apply to all public officials, only to a limited number. That law was complemented by Law No. 16/2012, which increased the number of public officials obliged to fill out a declaration (including magistrates, judges and prosecutors).

Senior public officials shall submit to the General Attorney's Office yearly asset declarations that concern their national and foreign assets. Declarations are covered by secrecy laws and their content are checked. If indication of corruption or illicit enrichment are present, the General Attorney's office has to conduct an investigation and may request additional information and clarifications. GIFiM has no access to the asset declarations.

During the Country Visit, GIFiM indicated that a possibility exists that it may request asset declarations from Attorney General's Office. That possibility is provided by article 3 of the law establishing GIFiM: public and private institution shall cooperate with the GIFiM. Article 20 of

AML law also requires all financial institutions and non-financial entities to collaborate with GIFiM.

AML Law No 14/2013 of August 12

Article 18

The Financial and non-financial institutions shall immediately submit a communication to GIFiM, without prejudice to the obligations with the respective supervisory entities, as specified by the latter, whenever:

- A) Suspect or have reasonable grounds to suspect that the funds or assets are proceeds of criminal activity, are related to or linked to;
- B) indications that such funds are used to finance terrorism;
- C) are aware of a fact or activity which may indicate the crime of money laundering or terrorist financing.

In compliance with the duty of communication, lawyers report the suspicious operations to the Bar Association, and this entity is responsible for communicating to GIFiM.

Article 20

"Financial and non-financial institutions should cooperate with the competent judicial authorities, as well as GIFiM, when requested, providing information on operations carried out by its clients or presenting documents related to the respective operations, assets, deposits or any other amounts in their custody".

Article 29

"The competent supervisory authorities should: (E) cooperate and share information with other competent authorities and provide research assistance; H) Inform GIFiM promptly of any suspicious transactions or facts that may be related to money laundering or terrorist financing"

Article 30:

"The competent supervisory authorities that detect the violation of the obligations provided by law, must impose the legally prescribed sanctions.

(b) Observations on the implementation of the article

Mozambique has not provided information on whether an effective financial disclosure system for appropriate public officials as well as appropriate sanctions for non-compliance have been established. There is also no information on whether appropriate measures have been taken by Mozambique to permit its competent authorities to share that information with the competent authorities when necessary to investigate, claim and recover stolen assets. Mozambique is not in compliance with the provision under review.

It is recommended that Mozambique strengthen its asset declaration system, including through systematizing the verification process (e.g. introducing random or routine verifications), computerizing the system, and effectively applying penalties for non-compliance.

Paragraph 6 of article 52

6. Each State Party shall consider taking such measures as may be necessary, in accordance with its domestic law, to require appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities and to maintain appropriate records related to such accounts. Such measures shall also provide for appropriate sanctions for non-compliance.

(a) Summary of information relevant to reviewing the implementation of the article

Although public officials are required to submit asset declarations to the Attorney General's Office, they are not obliged to report an interest in or signature or other authority over a financial account in a foreign country.

(b) Observations on the implementation of the article

Even though it is not a mandatory provision, **it is recommended that Mozambique consider extending asset declaration requirements of public officials to the disclosure of an interest in or signature or other authority over a financial account in a foreign country.**

Mozambique needs technical assistance with the implementation of this provision in the form of capacity building.

(c) Technical assistance needs

Capacity-building.

Article 53. Measures for direct recovery of property

Subparagraph (a) of article 53

Each State Party shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit another State Party to initiate civil action in its courts to establish title to or ownership of property acquired through the commission of an offence established in accordance with this Convention;

(a) Summary of information relevant to reviewing the implementation of the article

Mozambique's legislation allows for natural and legal persons to initiate civil proceedings as long as they possess legal personality (article 5 of Civil Procedure Code). This article does not exclude foreign States provided they hire a Mozambican lawyer to represent them in Mozambican courts.

However, to date there has been no instances when a foreign State initiated civil proceedings in Mozambican courts.

Civil Procedure Code

Article 5

1. The judicial personality consists in the susceptibility to be a part.
2. Anyone who has legal personality also has judicial personality.

Article 7

1. Branches, agencies, subsidiaries or delegations sue and be sued when the action is in fact carried out by them.

Article 65

The international jurisdiction of the Mozambican courts depends on verification of the following circumstances:

- A) The suit must be proposed in Mozambique according to the rules of territorial jurisdiction established by the Mozambican law;
- B) The fact that acts as a cause of action in the suit must be performed in the territory of Mozambique;
- C) To be the defendant foreigner and the complainant a Mozambican, provided, in reverse, that the Mozambican could be sued in the courts of the State to which the defendant belongs;
- D) The right cannot become effective only through a proposed suit in a Mozambican court, provided that between the action to be proposed and the Mozambican territory there is any element of personal and real connection.

AML Law 14/2013 of August 12:

Article 49:

1. The request for mutual legal assistance related to money laundering or terrorist financing made by another State should be executed under the provisions of this Law.
2. The request for mutual legal assistance shall include:
 - A) Assistance in providing research support;
 - B) Executing search and seizure;
 - C) Identification and location the proceeds of crime, money, property and instruments, as well as other objects for the purpose of proof or confiscation.

Article 53:

In the case of a request for enforcement of a confiscation order made by a foreign court the request is submitted to the judicial authorities for review and confirmation.

(b) Observations on the implementation of the article

The information provided by Mozambique suggests that in order for a foreign State to initiate civil action in Mozambican courts to establish title to or ownership of property acquired through the commission of an offence it needs to show that the offence was committed in Mozambique. This follows from the requirement that Article 65 (b) of Civil Procedure Code establishes that the international jurisdiction of the Mozambican courts depends on verification of, inter alia, the fact that acts as a cause of action in the suit must be performed in the territory of Mozambique. To that

extent and given that there has been no practice when a foreign state initiated civil action yet, Mozambique is not compliant with the provision under review.

It is recommended that Mozambique monitor that in practice, a foreign state is able to initiate civil action in the courts to establish title to or ownership of property acquired through the commission of an offence provided under the Convention.

Subparagraph (b) of article 53

Each State Party shall, in accordance with its domestic law: ...

(b) Take such measures as may be necessary to permit its courts to order those who have committed offences established in accordance with this Convention to pay compensation or damages to another State Party that has been harmed by such offences; and

(a) Summary of information relevant to reviewing the implementation of the article

Not in compliance.

(b) Observations on the implementation of the article

As this is a mandatory provision, **Mozambique should take necessary measures and implement legislation to permit its courts to order those who have committed offences to pay compensation or damages to another State Party that has been harmed by such offences.**

The legislative guide developed by the UNODC may be useful for guidance on the proper implementation of the article.

Subparagraph (c) of article 53

Each State Party shall, in accordance with its domestic law: ...

(c) Take such measures as may be necessary to permit its courts or competent authorities, when having to decide on confiscation, to recognize another State Party's claim as a legitimate owner of property acquired through the commission of an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

According to part 1 of article 54 of AML Law 14/2013 of August 12, Mozambique has the power to dispose of the property confiscated in its territory at the request of foreign authorities, if the contrary has not been foreseen by bilateral or multilateral agreement. Part 2 of the same Article states that Mozambique may enter into agreements with other States to allow confiscated capital or property to be shared among themselves".

(b) Observations on the implementation of the article

Mozambique is not compliant with the provision under review. The indicated legislation allows the disposal of property at the request of foreign authorities and the possibility of concluding

agreements for sharing confiscated property but does not cover the requirement to give standing to foreign countries in confiscation procedures.

As this is a mandatory provision, **it is recommended that Mozambique take necessary measures to implement it.**

(c) Technical assistance needs

Mozambique has indicated that it requires legislative assistance to comply with the requirements of the article.

Article 54. Mechanisms for recovery of property through international cooperation in confiscation

Subparagraph 1 (a) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to give effect to an order of confiscation issued by a court of another State Party;

(a) Summary of information relevant to reviewing the implementation of the article

In order for foreign court decisions to be valid in Mozambique they must go through a mechanism called sentencing review.

Article 1 of Civil Procedure Code: “Without prejudice to what is established in treaties and special laws, no decision on private rights, rendered by a foreign court, is effective in Mozambique, regardless of the nationality of the parties, without being reviewed and confirmed.”

On the other hand, article 53 of AML Law 14/2013 establishes that in the case of a request for execution of a confiscation order made by a foreign court, the request is submitted to the national judicial authorities for subsequent review and confirmation.

During the Country Visit, Mozambique explained that the general principle is that foreign court decisions are recognized after verification by a national court (article 225-9 of Civil Procedure Code. However, this applies to civil procedure. Mozambique does not give effect to a non-conviction based confiscation order issued by a foreign court.

Mozambique also mentioned a draft on international cooperation law that had been submitted for an internal debate and discussion. As the document is in early stages of development it has not been shared with the reviewers.

(b) Observations on the implementation of the article

The information provided by Mozambique does not mention procedures for implementing foreign judgements or foreign confiscation orders and the courts latitude in accepting or rejecting such requests. The report only mentions that under Civil Procedure Code they must be reviewed and

confirmed. To that extent, Mozambique is not compliant with the provision under review.

It is recommended that Mozambique take necessary measures to permit its competent authorities to give effect to a confiscation order issued by a foreign court.

Subparagraph 1 (b) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

...

(b) Take such measures as may be necessary to permit its competent authorities, where they have jurisdiction, to order the confiscation of such property of foreign origin by adjudication of an offence of money-laundering or such other offence as may be within its jurisdiction or by other procedures authorized under its domestic law; and

(a) Summary of information relevant to reviewing the implementation of the article

In cases of money laundering, the Mozambican state has the authority to confiscate all assets related to the crime as well as those destined for illicit activities and also those that the suspect cannot prove to be of legitimate origin.

According to article 38 of AML Law 14/2013 of August 12, the judge, at the request of the prosecutor, shall, within 48 hours, order the seizure of funds, rights, and any other objects, on behalf of the suspect or third parties, if he has reasonable grounds to believe that they are the proceeds of crime or were intended criminal activity or there are sufficient indications of the practice of money laundering or terrorist financing.

The Mozambican State has the power to dispose of the property confiscated in its territory at the request of foreign authorities if the contrary has not been foreseen by bilateral or multilateral agreement (article 54 (1) of AML Law).

Mozambican courts, at the request of the public prosecutor, may in the final decision order the confiscation of funds, assets, rights and any other object of illicit origin or intended for illicit activities, deposited in banks or other credit institutions, even in individual safes on behalf of the defendant or third parties (article 40 of AML Law).

AML Law 14/2013 of August 12:

Article 38 – Seizure of assets and rights

1. The Judge, at the request of the public prosecutor shall, within 48 hours of order the seizure of funds, rights and any other objects in the name of the suspect or others, when you have reasonable grounds to believe that they are the proceeds of crime or intended for criminal activity or there is sufficient evidence of the crime of money laundering or terrorist financing.
2. The judge may order the return of the seized funds, assets, rights, objects belonging to the suspect, when proved that the source is legal

Article 54 – Disposition of forfeited property

1. 1. Mozambique has the power to dispose of the property confiscated in its territory at the request of foreign authorities, if the contrary has not been foreseen by bilateral or multilateral agreement.
2. 2. "Mozambique may enter into agreements with other States to allow confiscated capital or property to be shared among themselves.

Article 40 – Confiscation of goods and rights

1. The Court, at the request of the public prosecutor, may in the final decision order the confiscation of funds and assets, rights and any other objects of illicit origin or intended for illicit activities, deposited in banks or other credit institutions, even in individual safes on behalf of the defendant or third parties.
2. It is ground of the illicit origin of funds, assets, rights and objects for the purpose of confiscation, its disproportion in relation to the defendant's income, the inability to determine the lawfulness of their origin, as well as falsity of the defendant's response to questions asked by Court on its economic and financial situation.

The evidence referred to above have alternate character; there is no cumulative relationship between them.

(b) Observations on the implementation of the article

The information provided by Mozambique concerns the confiscation of proceeds of crime, funds or objects intended to be used in criminal activity or in cases of money laundering and terrorist financing. Even though it is not clear whether the described measures apply to funds and objects of national origin only or those of foreign origin as well there is no express exclusion of foreign funds and objects.

Subparagraph 1 (c) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

...

(c) Consider taking such measures as may be necessary to allow confiscation of such property without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases.

(a) Summary of information relevant to reviewing the implementation of the article

Mozambique does not allow for non-conviction based confiscation, not even for mutual legal assistance purposes.

(b) Observations on the implementation of the article

Mozambique should consider taking measures to allow non-conviction based confiscation as required under this article.

Subparagraph 2 (a) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a freezing or seizure order issued by a court or competent authority of a requesting State Party that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article;

(a) Summary of information relevant to reviewing the implementation of the article

In the field of international cooperation, national competent authorities shall promote the most comprehensive cooperation possible with the competent authorities of other States for the purpose of mutual legal assistance in criminal investigations and other proceedings (article 48, AML Law 14/2013).

Article 49 of the AML Law allows for executing searches and seizures upon receiving requests from another State for mutual legal assistance related to money laundering or terrorist financing. A court order is not mandatory.

The procedure for executing search and seizure requires a judge to issue an order for seizure within 48 hours at the request of the public prosecutor. The order is issued if there are reasonable grounds to believe that the assets to be seized are the proceeds of crime or intended for criminal activity or there is sufficient evidence of the crime of money laundering or terrorist financing (article 38 of AML Law 14/2013).

In the case of a request for enforcement of a confiscation order made by a court of the requesting State, the request has been submitted to the national judicial authorities for review and confirmation (article 53, AML Law 14/2013).

AML Law No 14/2013 of August 12

Article 48 – Duty to cooperate

1. The competent authorities should promote the broadest possible cooperation with the competent authorities of other states for the purpose of extradition and mutual legal assistance in relation to criminal investigations and procedures related to money laundering and terrorist financing.
2. Dual criminality should be deemed fulfilled regardless of the requesting State subsume the offense within the same category of offense or criminalizing the same way as Mozambique, admitting that in both countries the conduct underlying the offense for which cooperation is sought is criminalized.

Article 49 - Requests for mutual legal assistance

1. The request for mutual legal assistance related to money laundering or terrorist financing made by another State should be executed under the provisions of this Law.
2. The request for mutual legal assistance shall include:
 - A) Assistance in providing research support;
 - B) Executing search and seizure;

- C) Identification and location the proceeds of crime, money, property and instruments, as well as other objects for the purpose of proof or confiscation.

Article 38 – Seizure of assets and rights

1. The Judge, at the request of the public prosecutor shall, within 48 hours of order the seizure of funds, rights and any other objects in the name of the suspect or others, when you have reasonable grounds to believe that they are the proceeds of crime or intended for criminal activity or there is sufficient evidence of the crime of money laundering or terrorist financing.
2. The judge may order the return of the seized funds, assets, rights, objects belonging to the suspect, when proved that the source is legal

Article 53:

In the case of a request for enforcement of a confiscation order made by a foreign court the request is submitted to the judicial authorities for review and confirmation.

(b) Observations on the implementation of the article

Mozambique courts may order search and seizure if the public prosecutor requests it on the basis of a request for mutual legal assistance from a foreign State. It is not mandatory to have a court order to execute it. However, the measures described apply if they relate to money laundering or terrorist financing only.

For this reason, Mozambique is not in full compliance with the provision under review.

Subparagraph 2 (b) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

...

(b) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a request that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article; and

(a) Summary of information relevant to reviewing the implementation of the article

Article 52 of AML Law provides that provisional measures, such as freezing and seizure, requested by a foreign State must be carried out in accordance with the domestic laws of Mozambique.

Article 38 of AML Law lays out the procedure for executing search and seizure. According to the article, a judge may issue an order for seizure within 48 hours at the request of the public prosecutor and if there are reasonable grounds to believe that the assets to be seized are the proceeds of crime or intended for criminal activity or there is sufficient evidence of the crime of money laundering or terrorist financing.

AML Law No 14/2013 of August 12

Article 38 – Seizure of assets and rights

1. The Judge, at the request of the public prosecutor shall, within 48 hours of order the seizure of funds, rights and any other objects in the name of the suspect or others, when you have reasonable grounds to believe that they are the proceeds of crime or intended for criminal activity or there is sufficient evidence of the crime of money laundering or terrorist financing.
2. The judge may order the return of the seized funds, assets, rights, objects belonging to the suspect, when proved that the source is legal.

Article 52 – Requests for provisional measures

1. The provisional measures requested by a State shall be applied in accordance with the Mozambican laws.
2. If the provisional measures have been requested in general terms, then the measures to be adopted are more appropriate under the Act.
3. If the Mozambican laws do not provide for the requested action, the competent authority can replace them with others provided for by law whose effects correspond to the requested measures.
4. Provisions relating to those described in paragraph 2 of article 38 and article 39 should be used for lifting the provisional measures.

Before lifting the provisional measures applied, the requesting State should be informed of the intention.

(b) Observations on the implementation of the article

Mozambique has provided information about its legislation that relate to provisional measures such as freezing and confiscation requested by foreign countries in accordance with domestic laws. However, the measures described apply if the request from a foreign State relate to money laundering or terrorist financing only whereas the provision refers to mutual legal assistance with respect to offences established in accordance with the Convention.

For this reason, Mozambique is not in full compliance with the provision under review.

Subparagraph 2 (c) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

...

(c) Consider taking additional measures to permit its competent authorities to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property.

(a) Summary of information relevant to reviewing the implementation of the article

Mozambique has not yet taken any measures to implement the provision. Seizure and freezing may be ordered only if there is a request from a foreign State.

(b) Observations on the implementation of the article

Mozambique has indicated that it is not in compliance with the provision under review.

Although the preservation of property for confiscation on the basis of a foreign arrest or criminal charge related is not a mandatory measure, **Mozambique shall consider taking measures to permit its competent authorities to preserve property for confiscation.**

(e) Technical assistance needs

Legislative assistance: more comprehensive laws integrating the issue of confiscation and seizure of assets involving another State are needed.

Other technical assistance needs are institution-building, capacity-building and facilitation of international cooperation with other countries.

Article 55. International cooperation for purposes of confiscation

Paragraph 1 of article 55

1. A State Party that has received a request from another State Party having jurisdiction over an offence established in accordance with this Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention situated in its territory shall, to the greatest extent possible within its domestic legal system:

(a) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, give effect to it; or

(b) Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting State Party in accordance with articles 31, paragraph 1, and 54, paragraph 1 (a), of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, situated in the territory of the requested State Party.

(a) Summary of information relevant to reviewing the implementation of the article

Mozambique explained that in case of a request for enforcement of a confiscation order is made by a court of the Requesting State, it would submit the application to the court for subsequent review and confirmation (article 53 of AML Law).

Mozambique does not require a treaty to provide cooperation for purposes of confiscation as UN Convention Against Corruption is directly applicable. In fact, Mozambique has already applied the provisions of the Convention in a cooperation case. The case involved the national airline company that purchased Embraer aircrafts from Brazil. The Mozambican entities in charge of the business deal charged a commission of 800,000 USD that was added to the purchase prices of the aircrafts. During the investigation UNCAC provisions enabled international cooperation with

Brazil, Sao Tome and Principe, Portugal and USA to gather information and documents and clarified the case that is currently in court for trial

For the purposes of this provision, the Attorney General Office is the national authority as defined in article 2 of Resolution 31/2006 that ratifies the UN Convention Against Corruption.

AML Law No 14/2013 of August 12

Article 53:

In the case of a request for enforcement of a confiscation order made by a foreign court the request is submitted to the judicial authorities for review and confirmation.

(b) Observations on the implementation of the article

Mozambique has only mentioned article 53 of AML Law and that the Attorney General's Office is the national authority for the purposes of the provision under review. The reviewers consider that the measures implemented by Mozambique are not in full compliance with the requirements of the article under review.

It is recommended that Mozambique monitor that in practice, when it receives a request from another State party for confiscation of proceeds of crime, it submits the request to its competent authorities for the purpose of obtaining a confiscation order and, if such order is granted, give effect to it.

Paragraph 2 of article 55

2. Following a request made by another State Party having jurisdiction over an offence established in accordance with this Convention, the requested State Party shall take measures to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention for the purpose of eventual confiscation to be ordered either by the requesting State Party or, pursuant to a request under paragraph 1 of this article, by the requested State Party.

(a) Summary of information relevant to reviewing the implementation of the article

Mozambique states that in accordance with the duty of cooperation established in part 1 of article 48 of AML Law, such measures may be adopted.

Requests to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities can be made pursuant to Article 49 of AML Law.

According to article 38 of AML Law 14/2013 of August 12, the judge, at the request of the prosecutor, shall, within 48 hours, order the seizure of funds, rights, and any other objects, on behalf of the suspect or third parties, if he has reasonable grounds to believe that they are the proceeds of crime or were intended criminal activity or there are sufficient indications of the practice of money laundering or terrorist financing.

Seizure of instrumentalities of crimes can be effected pursuant to articles 69 and 202 of Criminal Procedure Code.

AML Law 14/2013 of August 12

Article 48(1)

"The competent authorities shall promote the widest possible cooperation with the competent authorities of other States for the purpose of mutual legal assistance in relation to criminal investigations and procedures related to money laundering and terrorist financing.

Article 4

1. Requests for mutual legal assistance related to money laundering or terrorist financing made by another State should be executed under the provisions of this Law.
2. The request for assistance shall in particular include:
 - [...]
 - h) Identification and location of proceeds of crime, money, property, instruments and other objects as evidence or confiscation;
 - [...]
 - i) Seizure of funds and property.

Glossary of AML Law 14/2013:

Proceeds of crime – any goods or property obtained directly or indirectly as a result of crimes related to money laundering, including all assets full or partially converted, transformed or incorporated.

Seizure of funds and goods – prohibition of transfer, conversion, disposition or movement of funds or other property for as long as the validity of the judgment is still in force. Funds or property seized remain property of persons or entities to which they belonged when the order of seizure, its administration may be made by a financial institution or non-financial entity.

(b) Observations on the implementation of the article

Mozambique has stated that the measures required under the provision can be done in accordance with the general duty to cooperate under article 48 of AML Law and specific provisions under articles 38 and 49 of the same law. However, Mozambique did not provide details of the mechanisms and procedures in place to give effect to the provision under review.

Therefore, the reviewing experts consider that Mozambique is not fully compliant with the requirements of the provision under review.

Paragraph 3 of article 55

3. The provisions of article 46 of this Convention are applicable, mutatis mutandis, to this article. In addition to the information specified in article 46, paragraph 15, requests made pursuant to this article shall contain:

(a) In the case of a request pertaining to paragraph 1 (a) of this article, a description of the property to be confiscated, including, to the extent possible, the location and, where relevant, the estimated value of the property and a statement of the facts relied upon by the requesting State Party sufficient to enable the requested State Party to seek the order under its domestic law;

(b) In the case of a request pertaining to paragraph 1 (b) of this article, a legally admissible copy of an order of confiscation upon which the request is based issued by the requesting State Party, a statement of the facts and information as to the extent to which execution of the order is requested, a statement specifying the measures taken by the requesting State Party to provide adequate notification to bona fide third parties and to ensure due process and a statement that the confiscation order is final;

(c) In the case of a request pertaining to paragraph 2 of this article, a statement of the facts relied upon by the requesting State Party and a description of the actions requested and, where available, a legally admissible copy of an order on which the request is based.

(a) Summary of information relevant to reviewing the implementation of the article

Mozambique states that it does not require a treaty to provide cooperation for purposes of confiscation. They also use the Convention directly as there is no specific mutual legal assistance act in place.

In fact, Mozambique has already relied on the Convention in an international cooperation case. The case involved the national airline company that purchased Embraer aircrafts from Brazil. The Mozambican entities in charge of the business deal charged a commission of 800,000 USD that was added to the purchase prices of the aircrafts. During the investigation UNCAC provisions enabled international cooperation with Brazil, Sao Tome and Principe, Portugal and USA to gather information and documents and clarified the case that is currently in court for trial.

(b) Observations on the implementation of the article

Mozambique has stated that it is partially compliant and indicated that they use the provisions of the Convention directly. They also provided one positive example when the Convention was used directly.

However, there are no details of internal measures taken by Mozambique to implement the provision under review.

(c) Successes and good practices

Mozambique has already used the Convention as the basis of MLA granted to Brazil.

Paragraph 4 of article 55

4. The decisions or actions provided for in paragraphs 1 and 2 of this article shall be taken by the requested State Party in accordance with and subject to the provisions of its domestic law and its procedural rules or any bilateral or multilateral agreement or arrangement to which it may be bound in relation to the requesting State Party.

(a) Summary of information relevant to reviewing the implementation of the article

Mozambican legislation requires that when foreign authorities request a mutual legal assistance, the form of the assistance sought should not be contrary to domestic laws of Mozambique (article 49 of AML Law).

If foreign authorities request an investigation, it shall be carried out in accordance with the procedural rules in force in Mozambique, unless the competent foreign authority requests a specific procedure not contrary to the legal rules (article 51, AML Law).

If foreign authorities request provisional measures, such provisional measures shall be enforced in accordance with the domestic laws of Mozambique (article 52 of AML Law).

AML Law No 14/2013 of August 12

Article 49:

1. The request for mutual legal assistance related to money laundering or terrorist financing made by another State should be executed under the provisions of this Law.
 2. The request for mutual legal assistance shall include:
 - A) Assistance in providing research support;
 - B) Executing search and seizure;
 - C) Identification and location the proceeds of crime, money, property and instruments, as well as other objects for the purpose of proof or confiscation.
- [...]
- K) any other form of mutual judicial assistance that is not contrary to the domestic laws

[...]

Article 51 – Requests for investigation

1. The investigation should be performed in accordance with the procedural rules in force in Mozambique unless the competent authority requests a specific procedure which is not contrary to the legal norms.
2. The official authorized by the foreign competent authority can follow the process of investigation.

Article 52 – Requests for provisional measures

5. The provisional measures requested by a State shall be applied in accordance with the Mozambican laws.
6. If the provisional measures have been requested in general terms, then the measures to be adopted are more appropriate under the Act.
7. If the Mozambican laws do not provide for the requested action, the competent authority can replace them with others provided for by law whose effects correspond to the requested measures.
8. Provisions relating to those described in paragraph 2 of article 38 and article 39 should be used for lifting the provisional measures.

Before lifting the provisional measures applied, the requesting State should be informed of the intention.

(b) Observations on the implementation of the article

Mozambique has provided information that on the basis of Article 49, 51, and 52 of AML law requests for mutual legal assistance, investigations (unless the competent foreign authority

requests a specific procedure) and provisional measures shall be executed in accordance with its domestic laws. Mozambique did not provide examples of implementation and more information is required regarding the mechanisms, procedures and practices in place to find full compliance with the provision under review.

Paragraph 5 of article 55

5. Each State Party shall furnish copies of its laws and regulations that give effect to this article and of any subsequent changes to such laws and regulations or a description thereof to the Secretary-General of the United Nations.

(a) Summary of information relevant to reviewing the implementation of the article

Mozambique has provided a copy of AML Law 13/2013 of August 12 and its Regulation.

(b) Observations on the implementation of the article

Mozambique has provided a copy of AML Law 13/2013 of August 12 and its Regulation during the Country Visit.

Paragraph 6 of article 55

6. If a State Party elects to make the taking of the measures referred to in paragraphs 1 and 2 of this article conditional on the existence of a relevant treaty, that State Party shall consider this Convention the necessary and sufficient treaty basis.

(a) Summary of information relevant to reviewing the implementation of the article

Mozambique has indicated that it considers the Convention as directly applicable in cases of mutual legal assistance.

(b) Observations on the implementation of the article

Mozambique does not mention any legal texts of the Mozambican legislation in support. If the Convention may be used as a basis for provision of mutual legal assistance, Mozambique has not provided examples from practice when the Convention was used for that purpose. Mozambique should provide further details to demonstrate its compliance.

Paragraph 7 of article 55

7. Cooperation under this article may also be refused or provisional measures lifted if the requested State Party does not receive sufficient and timely evidence or if the property is of a de minimis value.

(a) Summary of information relevant to reviewing the implementation of the article

Mozambican legislation specifies the circumstances when a request for mutual assistance may be refused in Article 50 of AML Law 14/2013 of August 12. Insufficiency of evidence, untimeliness of provision of the evidence or the value of the property cannot be the reason for refusal of mutual legal assistance.

AML Law 14/2013 of August 21:

Article 50 – Refusal of mutual legal assistance

1. Mutual legal assistance may be denied if:

- a) The application has been made by a competent authority in accordance with the laws of the requesting country, or has not been transmitted in accordance with the applicable laws;
- b) Its execution offends the sovereignty, security, public order or other essential interests of Mozambique;
- c) The offence giving rise to the request is the subject of criminal proceedings in progress or has been the subject of a final court decision in the Mozambican territory;
- d) There are reasonable grounds to believe that the measure or order requested is directed against a person based on race, religion, nationality, ethnic origin, political choice, sex or marital status;
- e) The fact that the issue referred in the request is not criminalized under the legal system of Mozambique; the assistance can be provided if the request does not involve the use of coercive measures;
- f) The requested measures or any other similar effects are not allowed in the Mozambican legislation or if these cannot be used with regard to the referred offence reference.

2. The obligations of secrecy or confidentiality that binds financial institutions, non-financial entities cannot be invoked as reason to refuse to fulfil the request.

3. The support is not denied because of the fact that the offence involves issues related to tax crimes.

4. The competent authority should promptly inform the foreign competent authority of the reasons for refusal to satisfy the request.

(b) Observations on the implementation of the article

According to the information provided by Mozambique, there is no ground to refuse mutual legal assistance based on sufficiency of evidence and timeliness of its receipt or de minimum value of the property.

Paragraph 8 of article 55

8. Before lifting any provisional measure taken pursuant to this article, the requested State Party shall, wherever possible, give the requesting State Party an opportunity to present its reasons in favour of continuing the measure.

(a) Summary of information relevant to reviewing the implementation of the article

According to AML Law 14/2013 of August 12, before lifting provisional measures, Mozambique shall inform the requesting State of the intention to lift them.

AML Law 14/2013 of August 21:

Article 52 – Requests for provisional measures

[...]

Before lifting the provisional measures applied, the requesting State should be informed of the intention.

(b) Observations on the implementation of the article

Mozambican legislation requires that the requesting State is notified of the intention to lift provisional measures. However, there is no information about the possibility of the requesting State to present reasons in favour of continuation of the provisional measures.

Mozambique is not fully compliant with the provision under review.

Paragraph 9 of article 55

9. The provisions of this article shall not be construed as prejudicing the rights of bona fide third parties.

(a) Summary of information relevant to reviewing the implementation of the article

AML Law 14/2013 clarifies that the rights of bona fide third parties are protected under article 39 (see also article 45 of Regulation of AML Law).

AML Law 14/2013 of August 12:

Article 38 – Seizure of assets and rights

3. The Judge, at the request of the public prosecutor shall, within 48 hours of order the seizure of funds, rights and any other objects in the name of the suspect or others, when you have reasonable grounds to believe that they are the proceeds of crime or intended for criminal activity or there is sufficient evidence of the crime of money laundering or terrorist financing.
4. The judge may order the return of the seized funds, assets, rights, objects belonging to the suspect, when proved that the source is legal

Article 39 – Protection of the rights of bona fide third parties

1. After learning about the seizure, the third parties who claim ownership of the funds, assets, rights and other objects seized under the provisions of the previous article, he/she can complain in the relevant process, to safeguard their rights, by petition based on who claims and proves the facts which results in good faith.
2. The petition referred in the preceding paragraph of this Law, is assessed by annex, notifying the prosecutor to, within 10 days, oppose.
3. The decision is made by the Court as soon as they are done with the steps it deems necessary, unless on the ownership of the funds, assets, rights and objects, it is proven to be complex or likely to cause disruption to normal progress of criminal cases in which the Court may refer the third party to the civil courts.
4. The preceding paragraphs shall apply, even if the bona fide third party has only been aware of the loss of ownership of what was seized after being declared forfeited to the State.

Regulation of AML Law 14/2013 of August 12:

Article 45 – Defence of bona fide third-party claims

1. The bona fide third-party claims referred to in Article 39 of Law No 14/2013 of August 12 can be defended either in criminal proceedings, or through civil action.

The complexity and susceptibility to disruption of the normal conduct of the criminal proceedings referred to in paragraph 3 of Article 39 of Law No 14/2013 of August 12, are declared according to the opinion of the Court having consulted the Public Prosecution Office.

(b) Observations on the implementation of the article

Mozambique states that it is compliant with this provision on the basis of Article 38, 39 of AML Law 14/2013 and Article 45 of the AML Law Regulation, which guarantee third parties' rights. However, these provisions seem to relate to seizure and does not cover confiscation.

The reviewing experts consider that Mozambique is not fully compliant with the provision under review.

(c) Technical assistance needs

Mozambique has indicated the following types of technical assistance: legislative assistance, institution-building and capacity-building.

No technical assistance is being provided at the moment.

Article 56. Special cooperation

Article 56

Without prejudice to its domestic law, each State Party shall endeavour to take measures to permit it to forward, without prejudice to its own investigations, prosecutions or judicial proceedings, information on proceeds of offences established in accordance with this Convention to another State Party without prior request, when it considers that the disclosure of such information might assist the receiving State Party in initiating or carrying out investigations, prosecutions or judicial proceedings or might lead to a request by that State Party under this chapter of the Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Mozambique states that the Law establishing a Financial Intelligence Unit enables the Cabinet of Financial Information of Mozambique to exchange information with their foreign counterparts if requested or on its own initiative (article 2 (c)).

The Law No 14/2007 of 27 June (FIU Law) established GIFiM which is entitled to cooperate and exchange information at national and international level. GIFiM has signed a number of MoUs with other countries but almost exclusively with regional FIUs. Mozambique has also established a multi sectoral technical group called “Task Force” to share information among national bodies and organs. The Task Force is composed of the AGO, the GCCC, and technicians from various ministries and is chaired by GIFiM.

Article 12 (a) of the Decree no 62/2007, Mozambique's Financial Information Office (GIFiM) is

responsible for promoting regional and international cooperation with various specialized agencies on the prevention and combating of money laundering

Also, Article 48 of AML Law 14/2013 creates a duty for competent authorities of Mozambique to promote the broadest possible cooperation with competent authorities of other states.

Mozambique also stated that a relevant MoU will be signed with national criminal investigation service (CERNIC).

Law No 14/2017 of June 27 with approval of Law 3/97 of March 13

Article 2 – Functions

1. The functions of GIFiM are to collect, centralize, analyze and diffuse to the competent entities information related to financial economic operations susceptible of acts of money laundering and other related crimes.

2. For the exercise of their functions, GIFiM in accordance with regulated norms is authorized:

[...]

c) to exchange information with their foreign counterparts if requested or on its own initiative;

(b) Observations on the implementation of the article

Mozambique states that its legislation allows its financial intelligence unit GIFiM to exchange information with its foreign counterparts on its own initiative. GIFiM has also entered into a number of MoUs with competent authorities of other countries but mostly with regional FIUs. Mozambique has also received spontaneous communications from other countries but has not done it themselves.

It is recommended that Mozambique endeavour to enhance direct cooperation, including proactive disclosure of information.

(c) Technical assistance needs

Mozambique has indicated that it needs the following types of technical assistance: legislative assistance, institution-building and capacity-building.

Article 57. Return and disposal of assets

Paragraph 1 of article 57

1. Property confiscated by a State Party pursuant to article 31 or 55 of this Convention shall be disposed of, including by return to its prior legitimate owners, pursuant to paragraph 3 of this article, by that State Party in accordance with the provisions of this Convention and its domestic law.

(a) Summary of information relevant to reviewing the implementation of the article

Mozambique explains that pursuant to article 99-3 of the Penal Code, goods, assets or amounts of money which have been confiscated become the property of the State. As to seized goods, courts

can decide to allow them to be sold at an auction in order to preserve their value (article 5 Decree 21/71 on Judicial Services) but defendants cannot buy off his own property at such an auction.

Also, pursuant to article 106 of the Penal Code, the defendant definitively condemned, incurs:

- A) in the loss, in favour of the State, of the instrumentalities of the crime, the complainant, or third person, not having the right to its restitution;
- B) the obligation to restitute to the complainant those things for which the crime has deprived him or to pay him his legally verified value, if restitution is not possible and the complainant or his heirs request such payment.
- C) Convicted person has the obligation to restitute to the offended party the things that that party was deprived or pay legally the amount if the restitution is not possible. His or her heir can claim for this payment.

Article 54 of AML Law 14/2013 gives Mozambique the power to dispose of the property confiscated on its territory at the request of foreign authorities. Mozambique can also enter into agreements with other States to allow confiscated capital or property to be shared among themselves.

Mozambique also explained that it is in the process of establishing an asset management unit; it will be included in the next CPP. The process is in a very advanced stage - draft or proposal of establishment has been already submitted to the Ministry of Justice.

AML Law 14/2013 of August 12:

Article 54

"1. Mozambique has the power to dispose of the property confiscated in its territory at the request of foreign authorities, if the contrary has not been foreseen by bilateral or multilateral agreement".

2. "Mozambique may enter into agreements with other States to allow confiscated capital or property to be shared among themselves".

(b) Observations on the implementation of the article

The provision under review creates an obligation for Mozambique to return the confiscated assets to the requesting party. The laws mentioned by Mozambique refer to restitution of instrumentalities of the crime, the complainant, or third person, not having the right to its restitution and restitution to the complainant those things for which the crime has deprived him or to pay him his legally verified value, if restitution is not possible and the complainant or his heirs request such payment. They also refer to the possibility of disposing of confiscated assets upon request and possibility to enter into agreements with other States to allow for confiscated assets to be shared between them.

The information provided suggest that not all assets could be returned to its prior legitimate owner and will have to be shared. To this extent, Mozambique is not in compliance with the requirements of the provision under review.

It is recommended that Mozambique endeavour to establish an asset management unit.

Paragraph 2 of article 57

2. Each State Party shall adopt such legislative and other measures, in accordance with the fundamental principles of its domestic law, as may be necessary to enable its competent authorities

to return confiscated property, when acting on the request made by another State Party, in accordance with this Convention, taking into account the rights of bona fide third parties.

(a) Summary of information relevant to reviewing the implementation of the article

Mozambique considers that it has partially implemented the provision under review.

Pursuant to article 99-3 of the Penal Code, goods, assets or amounts of money which have been confiscated become the property of the State. As to seized goods, courts can decide to allow them to be sold at an auction in order to preserve their value (article 5 Decree 21/71 on Judicial Services) but defendants cannot buy off his own property at such an auction.

The measures required under the provision could be effected according to Article 48 of AML Law 14/2013, which concerns the duty of Mozambican competent authorities to promote the widest possible cooperation with other States, and Mozambique's the power of Mozambique to dispose of the property confiscated on its territory at the request of foreign authorities. Mozambique can also enter into agreements with other States to allow confiscated capital or property to be shared among themselves under Article 54 of AML Law 14/2013.

AML Law 14/2013 of August 12:

Article 48 - Duty to cooperate

1. The competent authorities should promote the broadest possible cooperation with the competent authorities of other states for the purpose of extradition and mutual legal assistance in relation to criminal investigations and procedures related to money laundering and terrorist financing.
2. Dual criminality should be deemed fulfilled regardless of the requesting State subsume the offense within the same category of offense or criminalizing the same way as Mozambique, admitting that in both countries the conduct underlying the offense for which cooperation is sought is criminalized.

Article 54 – Disposition of forfeited property

1. Mozambique has the power to dispose of the property confiscated in its territory at the request of foreign authorities, if the contrary has not been foreseen by bilateral or multilateral agreement.
2. "Mozambique may enter into agreements with other States to allow confiscated capital or property to be shared among themselves.

(b) Observations on the implementation of the article

Mozambique did not provide clear information as to whether there is a provision under its law to provide for its competent authorities to return confiscated property upon request made by another State Party with due care not to cause prejudice to rights of bona fide third parties. The information provided only refers to disposal of confiscated assets when requested by foreign States and the possibility of sharing the confiscated assets under anti-money laundering regime.

It is recommended that Mozambique extend its asset return beyond money laundering matters and monitor that when a request is made by another State party, Mozambique enables its competent authorities to return confiscated property in practice.

Subparagraph 3 (a) of article 57

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

(a) In the case of embezzlement of public funds or of laundering of embezzled public funds as referred to in articles 17 and 23 of this Convention, when confiscation was executed in accordance with article 55 and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party;

(a) Summary of information relevant to reviewing the implementation of the article

Mozambique considers that it has partially implemented the provision under review as the required measures could be effected according to Article 48 of AML Law 14/2013, which concerns the duty of Mozambican competent authorities to promote the widest possible cooperation with other States, and Mozambique's the power of Mozambique to dispose of the property confiscated on its territory at the request of foreign authorities. Mozambique can also enter into agreements with other States to allow confiscated capital or property to be shared among themselves under Article 54 of AML Law 14/2013.

Pursuant to article 99-3 of the Penal Code, goods, assets or amounts of money which have been confiscated become the property of the State. As to seized goods, courts can decide to allow them to be sold at an auction in order to preserve their value (article 5 Decree 21/71 on Judicial Services) but defendants cannot buy off his own property at such an auction.

Article 53 of AML Law 14/2013 (see above) establishes that in the case of a request for execution of a confiscation order made by a foreign court, the request is submitted to the national judicial authorities for subsequent review and confirmation.

(b) Observations on the implementation of the article

The information provided by Mozambique regarding the existing legislative measures that allow its competent authorities to return confiscated property to another State Party is not clear. It only refers to the review of confiscation orders issued by foreign courts and disposal of confiscated assets when requested by foreign States and the possibility of sharing the confiscated assets under anti-money laundering regime. To that extent, Mozambique is not in full compliance with the requirements of the provision under review.

It is recommended that Mozambique extend its asset return beyond money laundering matters and monitor that when a request is made by another State party, Mozambique enables its competent authorities to return confiscated property in practice.

Subparagraph 3 (b) of article 57

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

...

(b) In the case of proceeds of any other offence covered by this Convention, when the confiscation was executed in accordance with article 55 of this Convention and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party, when the requesting State Party reasonably establishes its prior ownership of such confiscated property to the requested State Party or when the requested State Party recognizes damage to the requesting State Party as a basis for returning the confiscated property;

(a) Summary of information relevant to reviewing the implementation of the article

Under Article 54 of Law 14/2013, Mozambique has the power to dispose of property confiscated in its territory at the request of foreign authorities. The second part of the article allows Mozambique to enter into agreements with other States to allow confiscated property or capital to be shared among themselves.

AML Law 14/2013 of August 12:

Article 54 – Disposition of forfeited property

1. Mozambique has the power to dispose of the property confiscated in its territory at the request of foreign authorities, if the contrary has not been foreseen by bilateral or multilateral agreement.
2. "Mozambique may enter into agreements with other States to allow confiscated capital or property to be shared among themselves.

(b) Observations on the implementation of the article

Mozambique has stated that it is not compliant with the provision under review. The information provided by Mozambique refers to provision of the anti-money laundering law where the State has the power to dispose of property confiscated in its territory at the request of foreign authorities and Mozambique may enter into agreements with other States to allow confiscated property or capital to be shared among themselves.

It is recommended that Mozambique extend its asset return beyond money laundering matters and monitor that when a request is made by another State party, Mozambique enables its competent authorities to return confiscated property in practice.

Subparagraph 3 (c) of article 57

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

...

(c) In all other cases, give priority consideration to returning confiscated property to the requesting State Party, returning such property to its prior legitimate owners or compensating the victims of the crime.

(a) Summary of information relevant to reviewing the implementation of the article

As has been previously mentioned, Mozambique's law does not give priority consideration to returning confiscated property to the requesting State party, to its prior legitimate owners or

compensating victims of the crime but establishes that goods, assets or amounts of money which have been confiscated become the property of the State (article 99-3 of the Penal Code.). As to seized goods, courts can decide to allow them to be sold at an auction in order to preserve their value (article 5 Decree 21/71 on Judicial Services).

(b) Observations on the implementation of the article

In accordance with articles 46 and 55 of the Convention and paragraphs 1 and 2 of article 57 of the Convention, the provision under review requires Mozambique to give priority consideration to returning confiscated property to the requesting State Party, returning such property to its prior legitimate owners or compensating the victims of the crime. On the basis of the information provided, the reviewing experts consider that Mozambique is not compliant with the provision under review.

Paragraph 4 of article 57

4. Where appropriate, unless States Parties decide otherwise, the requested State Party may deduct reasonable expenses incurred in investigations, prosecutions or judicial proceedings leading to the return or disposition of confiscated property pursuant to this article.

(a) Summary of information relevant to reviewing the implementation of the article

Mozambique has stated that it does not have legislation related with the issue. However, it is possible to take such measures by applying the relevant provisions of the Convention directly.

(b) Observations on the implementation of the article

Mozambique has stated that it may apply the Convention directly to address the measure required by the provision under review as it does not have specific legislation in this regard. However, without showing examples from practice when the Convention was applied directly, Mozambique cannot be found to be in compliance with the provision.

As this is not a mandatory provision, Mozambique may consider addressing the issue in other mechanism such as mutual legal assistance in the context of international cooperation.

Paragraph 5 of article 57

5. Where appropriate, States Parties may also give special consideration to concluding agreements or arrangements, on a case-by-case basis, for the final disposal of confiscated property.

(a) Summary of information relevant to reviewing the implementation of the article

Article 54 of AML Law 14/2013 establishes that Mozambique has the power to dispose of the property confiscated in its territory at the request of foreign authorities if the contrary has not been foreseen by bilateral or multilateral agreement. Mozambique may also enter into agreements with other States to allow confiscated property or capital to be shared among themselves.

At the time of the Country Visit, Mozambique did not have an example of the implementations of the article yet and it had not concluded any agreement provided under article 54(2) of the AML Law.

AML Law 14/2013 of August 12:

Article 54 – Disposition of forfeited property

1. Mozambique has the power to dispose of the property confiscated in its territory at the request of foreign authorities, if the contrary has not been foreseen by bilateral or multilateral agreement.
2. "Mozambique may enter into agreements with other States to allow confiscated capital or property to be shared among themselves.

(b) Observations on the implementation of the article

According to the information provided, Mozambique may dispose confiscated assets at the request of foreign authorities subject to provisions of bilateral or multilateral agreement. Mozambique may also enter into agreements with other States to allow confiscated assets to be shared among themselves.

Reviewing experts consider that Mozambique is partly compliant with the provision under review as there is no example from practice and the possibility to conclude agreements seems to be limited to asset sharing.

Mozambique may wish to conclude agreements or mutually acceptable arrangements for the final disposal of confiscated property in practice.

(c) Technical assistance needs

Mozambique has indicated a need in technical assistance in the form of a legislative assistance.

Article 58. Financial intelligence unit

Article 58

States Parties shall cooperate with one another for the purpose of preventing and combating the transfer of proceeds of offences established in accordance with this Convention and of promoting ways and means of recovering such proceeds and, to that end, shall consider establishing a financial intelligence unit to be responsible for receiving, analysing and disseminating to the competent authorities reports of suspicious financial transactions.

(a) Summary of information relevant to reviewing the implementation of the article

As mentioned above, FIU Law 14/2007 and Decree 62/2007 of the Council of Ministers established the Mozambican Financial Information Office (GIFiM) with the purpose of collecting, centralizing, analysing, and disseminating to the competent entities the information regarding economic and financial operations that may constitute acts of money laundering and other related crimes.

Under article 18 of AML Law 14/2013, financial institutions and non-financial entities must immediately submit to GIFiM, whenever they suspect or have reasonable grounds to suspect that funds or assets are proceeds of criminal activity, are related or connected;

Under article 21 of AML Law 14/2013, it is the responsibility of the supervisory authorities as well as of GIFiM within the scope of its legal attributions and competences to issue blanks and to

disseminate up-to-date information on known trends and practices for the purpose of preventing money laundering and terrorist financing.

Mozambique has stated that in 2016, GIFiM received only 536 suspicious transaction reports (STRs).

GIFiM has entered into MOUs with competent authorities of Angola, Cabo Verde, Botswana, Ethiopia, Lesotho, Malawi, Namibia, Brazil, South Africa, Swaziland, Uganda, Zambia and Zimbabwe. It has also entered in MOUs with other national bodies such as Revenue Authority, Bank of Mozambique, and Criminal Investigation Police (SERNIC).

GIFiM was in the process of becoming a member of Egmont Group at the time of the Country Visit.

AML Law 14/2013 of August 12:

Article 18

The Financial and non-financial institutions shall immediately submit a communication to GIFiM, without prejudice to the obligations with the respective supervisory entities, as specified by the latter, whenever:

- A) Suspect or have reasonable grounds to suspect that the funds or assets are proceeds of criminal activity, are related to or linked to;
- B) indications that such funds are used to finance terrorism;
- C) are aware of a fact or activity which may indicate the crime of money laundering or terrorist financing.

In compliance with the duty of communication, lawyers report the suspicious operations to the Bar Association, and this entity is responsible for communicating to GIFiM.

Article 21 – Dissemination of information

It is up to the supervisory authorities, as well as GIFiM, within its legal functions and powers to issue warnings and disseminate updated information on known trends and practices in order to prevent money laundering and terrorist financing.

Article 54 – Disposition of forfeited property

1. Mozambique has the power to dispose of the property confiscated in its territory at the request of foreign authorities, if the contrary has not been foreseen by bilateral or multilateral agreement.
2. "Mozambique may enter into agreements with other States to allow confiscated capital or property to be shared among themselves.

(b) Observations on the implementation of the article

According to the information provided, Mozambique has established a Financial Intelligence Unit – GIFiM - which is responsible to collect, centralize, analyse, and disseminating to the competent entities the information regarding economic and financial operations that may constitute acts of money laundering and other related crimes. There is an obligation to report suspicious transactions to GIFiM and supervisory authorities including the GIFiM shall disseminate up-to-date information on known trends and practices for the purpose of preventing money laundering

and terrorist financing. GIFiM has also concluded a number of MOUs with competent authorities of States, mostly regional.

However, the reviewing experts consider that **Mozambique should endeavour to adopt more MOUs between GIFiM and other national FIUs outside the sub-region and to ensure that GIFiM becomes a member of Egmont Group. Mozambique shall also take measures to increase the number of STRs sent to GIFiM.**

Article 59. Bilateral and multilateral agreements and arrangements

Article 59

States Parties shall consider concluding bilateral or multilateral agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to this chapter of the Convention.

(a) Summary of information relevant to reviewing the implementation of the article

Mozambique is a signatory to the United Nations Convention Against Corruption, SADC Protocol against Corruption, the African Union Convention on Preventing and Combatting Corruption and the Convention on Mutual Legal Assistance in Criminal Matters between the Members of the Community of Portuguese-speaking Countries.

(b) Observations on the implementation of the article

While Mozambique has indicated that they are already signatories to some international agreements in the field of MLA and anti-corruption, it is still the view of the reviewing experts that **Mozambique should consider signing more bilateral or multilateral cooperation agreements with other States that include provisions on asset recovery and other issues covered under Chapter V of the Convention.**