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Money laundering and terrorism financing:

Critical analysis of Mozambique's progress to be lifted from FATF grey list

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Abstract

This text presents and analyses critically the progress made by Mozambique in order to come off the grey list of the Financial Action Task Force (FATF). The country was placed on the grey list in 2022, because of strategic deficiencies in preventing and fighting against money laundering, the terrorism financing of and the proliferation of weapons of mass destruction. Mozambique has made progress in only 7 of the 15 recommendations submitted for assessment by the Group to Fight Against Money Laundering in Eastern and Southern Africa (ESAAMLG). The progress made results from the approval of new legislation to prevent and fight against money laundering, the terrorism financing and the proliferation, as well as holding the National Risk Assessment. The country's great weakness remains the incapacity of the authorities to investigate crimes of money laundering and terrorism financing, and holding responsible those involved in these crimes, including the failure to hold a sector risk assessment of not-for-profit organisations (religious bodies, International NGOs, civil society organisations) in the financing of terrorism. The analysis also stresses that the Ministry of Finance is contracting goods and consultancy services, without obeying the rules for public contracting. It justifies this failure with the need for haste to take the country off the grey list. This text is the result of documentary research.

Key words: Money Laundering; Terrorism Financing; International Financial Action Group; Grey List; Mozambique;

Introduction

Mozambique was put under increased monitoring (on the grey list) of The International Financial Action Group (FATF) in October 2022, due to strategic deficiencies that the country demonstrates in the fight against money laundering, the terrorism financing, and the proliferation of weapons of mass destruction¹, as the country is facing long-term terrorist attacks in the northern provinces.

Other African countries under terrorist attack, or where terrorism financing activities were registered, were also put on the grey list. This included the Democratic Republic of Congo, Mali, Nigeria, Burkina Faso, South Africa, South Sudan, Tanzania, Uganda². The Mozambican Government promised to remove the country from the grey list in two years³, but too little progress has been achieved to date to attain that goal within the period established.

The present text analyses the progress made by the country since it was put on the grey list and the prevailing challenges. The text is the result of documentary research on the actions which led the country to being placed on the grey list. Among the documents consulted are progress reports submitted by the government for assessment by the Group for Combatting Money Laundering in Eastern and Southern Africa (ESAAMLG) and by FATF.

Passing laws is not enough – they must be applied

In March 2023, the Mozambican government submitted to the Group for Combatting Money Laundering in Eastern and Southern Africa (ESAAMLG) the Enhanced Follow-up Report – FUR requesting the positive re-rating of compliance with the 15 recommendations.

Mozambique requested a new assessment after holding its first National Risk Evaluation⁴ and the approval of the new package of legislation on the fight against money laundering, the financing of terrorism and the proliferation of weapons of mass destruction.

However, of the 15 recommendations for which Mozambique requested a reassessment, in only seven (46,7%) did it obtain a positive assessment. The ESAAMLG immediately rejected five (5) of the 15 recommendations submitted by the Mozambican government. Of the 10 which followed for reassessment, nine (9) were assessed positively by the ESAAMLG, as having made progress in conformity with the rules of FATF. However, five member countries of the *Joint Group* – JG, namely Germany, France, Holland, the United Kingdom and the United States, raised objections to two positive assessments granted to Mozambique by ESAAMLG. With these objections, only 7 recommendations were assessed as having made progress.

Not all the 7 recommendations with progress mean that Mozambique is compliant. In three recommendations, the country is complying partially (see tables 1 and 2).

Faced with this situation, Mozambique was directed “to remain in the enhanced follow-up process since it was rated Low/ Moderate level of effectiveness in 11 Immediate Outcomes and report back in September 2023”

FATF has a total of 40 recommendations which should be adopted by all countries to guarantee that their financial systems are not used for money laundering, for financing terrorism and for proliferation (of weapons of mass destruction)⁵.

Countries whose jurisdictions are not in compliance with a significant part of the FATF recommendations may fall under strengthened follow-up by FATF, and should the defects persist, they may suffer serious restrictions in access to the international financial system.

Mozambique was submitted to peer assessment in the Group to Fight against Money Laundering in Eastern and Southern Africa, in May 2021. From that assessment, it was found that in 30 of the 40 recommendations of FATF, Mozambique was classified as being partly compliant (PC) and non-compliant (NC). Table 1 shows the situation of Mozambique on complying with the recommendations of FATF in May 2021.

TABLE 1. Classifications of technical compliance, May 2021

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
PC	PC	PC	PC	PC	NC	NC	NC	C	PC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
LC	LC	LC	NC	NC	PC	C	LC	NC	PC
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
C	PC	PC	NC	NC	NC	PC	PC	LC	PC
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
PC	PC	PC	PC	PC	PC	PC	PC	LC	LC

Source: ESAAMLG, 2021

1 Nhamirre, B (2022). Moçambique não cumpriu com 80% das recomendações internacionais contra o branqueamento de capitais e financiamento ao terrorismo. CIP. Available on <https://www.cipmoz.org/pt/2022/10/13/mocambique-nao-cumpriu-com-80-das-recomendacoes-internacionais-contra-o-branqueamento-de-capitais-e-financiamento-ao-terrorismo/> (consulted on 22 May 2023)

2 FATF (24 February 2023). Jurisdictions under Increased Monitoring – 24 February 2024. Available on <https://www.fatf-gafi.org/en/publications/High-risk-and-other-monitored-jurisdictions/Increased-monitoring-february-2023.html> (consulted on 7 June 2023)

3 O País (2023). País avança em acções para sair da lista cinzenta do GAFI. Available on <https://opais.co.mz/pais-avanca-em-accoes-para-sair-da-lista-cinzenta-do-gafi/> consulted on 22 May 2023)

4 República de Moçambique (2022). Relatório da Avaliação Nacional Dos Riscos De Branqueamento De Capitais e de Financiamento do Terrorismo. Available on <http://www.gifim.gov.mz/documents/138.pdf> consulted on 6 June 2023)

5 The Portuguese translation is available at <https://www.gov.br/coaf/pt-br/centrais-de-conteudo/publicacoes/publicacoes-do-coaf-1/as-recomendacoes-do-gafi-livro.pdf> (consulted on 22 May 2023)

Captions:

NC – Non compliant

PC – Partially compliant

LC – Largely compliant

C – Compliant

After the assessment of May 2021, recommendations were issued with immediate results that the country should implement to avoid being placed on the grey list. But the Government failed in compliance with the recommendations⁶, and in October 2022, Mozambique was put on the FATF grey list.

After the Government became aware that the country would be put on the grey list, it rushed to implement some reforms, in the hope that it could still avoid the country from indeed being put on the list. These reforms included the National Assessment of the Risks of Money Laundering and of the Financing of Terrorism, the approval of legislation to prevent and combat terrorism⁷ and revision of the legislation to prevent money laundering and terrorism financing⁸.

In March 2023, Mozambique submitted to ESAAMLG the 2nd Report of Strengthened Follow-up, including the reforms undertaken (legislative and the National Risk Assessment) and requested the reassessment of 15 recommendations. Of these, 5 were promptly rejected because of the lack of basic reforms to support the reassessment of compliance. 10 recommendations were accepted for reassessment. Table 2 shows the new classification of Mozambique in the assessment of March this year.

Table 2: Reassessment of technical compliance, March 2023

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
PC (LC)	PC	PC	PC (C)	PC	NC (LC)	NC (LC)	N C (NC)	C	PC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
LC	LC	LC	NC (PC)	NC (PC)	PC	C	LC	NC (LC)	PC (C)
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
C	PC	PC	NC	NC	NC (PC)	PC	PC	LC	PC
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
PC	PC	PC	PC	PC	PC	PC	PC	LC	LC

Source: ESAAMLG, 2023

As can be seen in Table 2, the new assessment makes some updatings of Mozambique’s compliance with FATF’s recommendations, in the following terms:

- R.4 and R.20 updated from PC to C
- R.1 updated from PC to LC
- R.6 and 19 updated from NC to LC
- R. 7, 14, 15, 26 updated from NC to PC
- R. 8 kept as NC.

The reassessment of Mozambique in the ESAAMLG was undertaken by regional experts who made the analysis, namely: Zenobia Barry (Namibia), Julia Mukapuli (Namibia), Susan Mangori (Botswana), Refilwe Nasha (Botswana), Kapaletswe Chikhwa Somolekae (Botswana), Tshwaragano Mmereki (Botswana), Patrick Okettayot (Uganda) and Ricardo João (Angola).

Progress of Mozambique questioned by international experts

Two positive results attributed to Mozambique by regional experts of ESAAMLG were questioned by member states of FATF. These are recommendations 6 and 7, in which experts from Germany, France, Holland, the United States and the United Kingdom did not agree that progress had been made. Recommendation 6 concerns targeted financial sanctions related to terrorism and terrorist financing. The regional experts of ESAAMLG considered that Mozambique has progressed from non-compliant to largely compliant because the new legislation, in establishing the Legal Regime for Preventing, Repressing and Combatting Terrorism and the Proliferation of Weapons of Mass Destruction, contains some articles that envisage sanctions related to the financing of terrorism.

Recommendation 7 refers to targeted financial sanctions related to terrorism and proliferation financing. The regional experts of ESAAMLG likewise considered that Mozambique has progressed from non-compliant to largely compliant, because the new legislation contains provisions that punish these aspects.

The international experts disagreed with the positive assessment given to Mozambique. For example, German experts commented that “the freeze requirement only applies to Financial Institutions and Designated non-financial Businesses and Professions (DN-FBPs) and it does not extend to the rest of natural and legal persons. Despite this large gap, the reviewers rated this deficiency as only a minor deficiency...”

For their part, French experts agreed with the Germans, adding that “More precisely, as per FATF Methodology, criteria require that “countries should require all natural and legal persons within the country to freeze, without delay and without prior notice, the funds or other assets of designated persons and entities”, and the

6 Nhamirre, B (2022). Moçambique não... *op cit*

7 Law no. 13/2022, of 8 July, which established the legal regime for the Prevention, Repression and Combat against Terrorism and the Proliferatio of Weapons of Mass Destruction

8 Law no. 11/2022, of 7 July. Amends Law no. 14/2013, of 12 August, the Law on the Prevention and Combat against Money Laundering and Terrorist Financing.

freeze requirement only applies to FIs and DNFBPs and that it does not extend yet to the rest of natural and legal persons.

Experts from the United Kingdom added “this rating appears inconsistent with how this deficiency has been weighted for many other countries in the Global Network... If the current version of the FUR is published, it would send mixed messages to FSRBs (FATF-Style Regional Bodies (FSRBs) and the public about how the FATF judges deficiencies related to Targeting Financial Sanctions (TFS) and the importance of all natural and legal persons being involved in the implementation of sanctions. Given Mozambique’s risk and context, the FATF Global Network should ensure the proper structure is in place for the country to effectively implement TFS”.

Failure in the six major recommendations

Among the 40 recommendations of FATF, there are the “BIG SIX”, concerning the criminalisation of money laundering and terrorist financing, financial sanctions aimed at terrorist financing, due diligence of clients, and measures to maintain records and reports of suspect transactions. These are recommendations 3, 5, 6, 10, 11 and 20⁹.

If a country is rated Non-compliant or Partially Compliant (NC/PC) on 3 or more of these big six, then a country may be subject to the International Co-operation Review Group process. Mozambique is in this situation because it is partially compliant in recommendations 3, 5 and 10 (see Table 2).

Failure to assess the risk of not-for-profit organisations among the great weaknesses

Apart from the BIG SIX, there is another group of recommendations and immediate outcomes considered essential by FATF. These are the first 11 (1 to 11) of the 40 recommendations.

With regard to these recommendations, Mozambique shows non-compliance in only one, recommendation 8, which deals with the need to assess the risk of not-for-profit organisations and the respective regulations. Mozambique has concluded the National Risk Assessment on money laundering and terrorist financing which covers the risks of not-for-profit organisations. However, Mozambique has not held the sector risk assessment of not-for-profit organisations. Experts of the ESAAMLG say that Mozambique has not yet identified not-for-profit organisations that fall under the FATF definition of bodies that are most likely to be at risk of terrorist financing abuse. “The National Risk Assessment Report does not provide a clear analysis of the risks posed by the not-for-profit organisations that operate in Mozambique”, say the ESAAMLG experts. Although the Prevention and Combating of Money Laundering and Terrorist Financing Act contains provisions which requires Non-Profit Organizations to have policies which promote accountability, integrity and public confidence in

their administration and management and encourages the use of regulated financial institutions when carrying out financial transactions, the ESAAMLG experts noted that the rest of the deficiencies remain outstanding. Thus, based on the foregoing analysis, the outstanding deficiencies are considered as major, and a rating of NC is maintained.

A group of NGOs has been in discussion with the Government, through the Ministry of Foreign Affairs, where an Executive Coordinating Committee for the removal of Mozambique from the grey list is working. However, there is so far no consensus between the NGOs and the Government on holding the National Risk Assessment. The NGOs fear that the government might take advantage of the situation to limit their activities, through passing legislation that restricts civic space.

In the schedule set by the Government, the risk assessment of non-profit organizations was supposed to start in May. However, this was not possible due to the lack of understanding between the Government and the organizations regarding the safeguarding of civic space. There are, however, indications that the assessment will start on June 21 this year and will be completed by the end of August and is expected to cover more than 300 organizations. The assessment will be conducted by the multi-sectoral technical group, led, on the Government side, by the Ministry of Foreign Affairs, and, on the side of the civil society organizations, the assessment process will be led by the CESC. The assessment of non-profit organizations will use the methodology of the Greenacre Group, which helps countries assess vulnerabilities that could lead to these types of organizations being used for terrorist financing¹⁰.

In this process, Mozambican civil society organizations have the technical advice of the Global Center on Cooperative Security, a U.S. organization that supports governments, businesses and non-governmental organizations to ““to achieve lasting security by advancing inclusive, human rights-based policies, partnerships, and practices that address the root causes of violent extremism¹¹”.

Inability to Investigate Money Laundering remains Mozambique’s main weakness

The weak capacity of the institutions that apply the laws to effectively investigate cases of money laundering was the main reason which led Mozambique to be placed on the GFI grey list. It is within the power of the Public Prosecutor’s Office to investigate acts suspected of constituting money laundering offences. However, this body is facing difficulties concerning investigating this type of crime, particularly in technical terms.

In the Attorney-General’s Report of 2018, this question arose when it noted “one of the great challenges in the preparatory investigation of cases of money laundering concerns the application of special investigation mechanisms and techniques¹²”.

Earlier, in 2015, difficulties in investigating money laundering cases were indicated – specifically the lack of technical capacity to investigate the crime preceding the money laundering. It was said

9 FATF (2022). Report on the State of Effectiveness and Compliance With the FATF Standards Available on <https://www.fatf-gafi.org/en/publications/Fatfgeneral/Effectiveness-compliance-standards.html> (consulted on 7 June 2023)

10 Greenacre Group (2015). Greenacre’s NPO Sector Risk Assessment Methodology. Disponivel em <http://greenacregroup.co.uk/greenacre-government/npo-risk-assessments/> (consulted on 15 June 2023)

11 <https://www.globalcenter.org/about-us/> (consulted on 15 June 2023)

12 Annual Report of the Attorney-General to the Assembly of the Republic – 2018, p. 82

at the time that “these innovative measures are not applicable in investigating most crimes that precede money laundering, namely drug trafficking, corruption, extortion, kidnapping, and theft, among others”¹³. It should be noted that, to secure a conviction for money laundering, it is fundamental to prove that a prior crime has been committed, included in the list envisaged in the law¹⁴.

To elucidate the difficulties that the Public Prosecutor faces in investigating crimes of money laundering, we shall resort to the official statistics contained in the annual reports from the Attorney-General’s Office (PGR) to the Assembly of the Republic (AR) for the past ten years, from 2014 to 2023.

Statistics on money laundering cases show the incapacity of the Public Prosecutor’s Office to investigate this type of crime

By way merely of illustration, in the Annual Report from the Attorney-General for 2023, the statistics presented show that in 2022, more cases of money laundering were recorded (69 in all), but of these, charges were only brought in 11 cases. That is, there were more cases registered than those where the Public Prosecutor’s Office effectively managed to complete its investigation by laying charges. This has constituted a pattern, as will be shown in the following table.

Table 3. Analysis of the evolution of money laundering cases (2013 – 2022)

Report (year)	Communications	Registered	Investigated	Charged	Abstained
2014 (2013)		-	-	-	-
2015 (2014)		-	-	-	-
2016 (2015)		8	-	-	-
2017 (2016)	12	16	7	7	2
2018 (2017)	97	40	-	-	-
2019 (2018)	48	41	72	3	8
2020 (2019)	-	48	33	21	10
2021 (2020)	33	45	-	-	-
2022 (2021)	16	36	-	-	
2023 (2022)	29	69	-	11	16
Total	235	303	112	42	36

Source: Annual Reports by the Attorney-General to the Assembly of the Republic

The table shows that, during the period under analysis, 303 money laundering cases were registered. Of these, 112 were investigated. This means that, of the total number of cases registered, only 36.9% passed into the phase of preparatory investigation, or investigation proper.

13 Annual Report of the Attorney-General to the Assembly of the Republic – 2016, p. 49

14 Law no. 11/2022 of 7 July (establishes the legal regime and measures of prevention and repression, regarding the use of the financial system and of non-financial entities, for money laundering, terrorist financing and financing the proliferation of weapons of mass destruction).

15 Law no. 7/2002, of 5 February – Revoked - (Establishes the legal regime for preventing and repressing the use of the financial system to practice acts of laundering capital, goods, products or rights deriving from criminal activities defined in terms of the present Law).

16 <https://verdade.co.mz/pg-r-afirma-haver-indicios-de-lavagem-de-dinheiro-no-sector-imobiliario/>

17 <https://verdade.co.mz/beatriz-buchili-relaciona-investimentos-no-sector-imobiliario-ao-branqueamento-de-capitais-em-mocambique/> - Informação Anual de 2017

18 Informação Anual do Procurador-Geral da República a Assembleia da República (2018), página 81.

Of the 112 cases investigated, only 42 led to charges during the period in question. So just 37.5% of cases ended with the prosecution laying formal charges. These numbers show that there are defects in the investigation of the money laundering cases registered, which results in the low number of cases that end in prosecution. It should also be mentioned that, during the period analysed, there were 36 cases where the public prosecutor abstained. The reasons for this were not mentioned.

Real estate sector suspected of money laundering for lack of a regulatory body

The first time that the Public Prosecutor’s Office presented a direct concern about the occurrence of acts that constitute the crime of money laundering was about 10 years after the first law punishing this crime was passed, specifically in 2011¹⁵. At the time, the then PGR, Augusto Paulino, said “in our case, Mozambique, money laundering seems to involve the real estate business, since it is known that the national economy is not capable of carrying constructions on the scale of those that are springing up in the major cities, particularly in the country’s capital”¹⁶.

Then, in 2018, the current Attorney-General, Beatriz Buchili, also pointed to the same sector mentioned by her predecessor as showing signs of being used to practice acts related with money laundering¹⁷. To confront such suspicions, Beatriz Buchili, in her annual report to the Assembly of the Republic, went further and stated that “... the real estate sector lacks a regulatory body, and this fact contributes to weakness and defective inspection, so that it may thus be used for illicit activities or purposes such as money laundering”¹⁸. However, so far, 8 years after this denunciation was made, no specialist regulatory body has formally been created to inspect activities undertaken in the real estate sector, which means that the sector remains vulnerable to the practice of money laundering.

Priority actions for removing Mozambique from the “grey list” in the judicial area

For Mozambique to come off the FATF grey list, the country must comply effectively with a series of recommendations. However, for the judiciary there are two priority measures which should be undertaken, namely:

1. The country should demonstrate the capacity of the Authorities that Apply the Law to investigate effectively cases of money laundering, using financial information.
2. Train all the authorities that apply the law in legal mutual aid to improve the collection of evidence or in the seizure/confiscation of the products of crime;

With regard to the first measure, it is important to mention that, from

the retrospective analysis undertaken, particularly referring to the years that present complete information (see table above), in 2016 there were 12 communications from financial institutions about suspected acts of money laundering which resulted in opening 16 criminal cases, - two more than the communiqués of the years in question, which means that some of the communications were inherited from the previous year (2015).

In 2018 the Public Prosecutor’s Office received 48 communications which resulted in opening 32 criminal cases. There is a difference of 16 cases, with no information as to whether they were shelved, or the attorneys decided not to prosecute, or they passed into the next year. In 2020, 49 communications were received which resulted in the opening of 33 criminal cases. Again there was a difference of 16 cases, and again it is not known if the subsequent steps in processing them were followed. In 2021 of the 16 communications received, 14 resulted in criminal cases. There were two cases where the outcome is also unknown. That is, there was almost always a difference between the communications made by the financial institutions and those which really resulted in the opening of criminal cases, which deepens the fact that the first measure mentioned above derives from the fact that the Public Prosecutor’s Office shows an incapacity to investigate effectively cases of money laundering by using financial information.

As for the second priority measure listed by the movement to remove the country from the grey list, it is already being put into practice. Several training activities are under way involving agents of the National Criminal Investigation Service (SERNIC), judges and prosecutors. However, no information is available about the sums confiscated/seized during the investigation of money laundering cases. In the official statistics available to date, sums were only presented as estimates referring to 2016, concerning 12 communications and 4 denunciations of suspects which, in total, indicated 1,887,322,434.27 Mts (One billion, eight hundred and eighty seven million, three hundred and twenty two thousand, four hundred and thirty four meticais and twenty seven centavos)¹⁹. However, the Public Prosecutor’s Office should present, in a disaggregated manner, the information about the values seized/confiscated related with the crime of money laundering, so that its efficiency can be assessed, despite what has come to be demanded in the courts.²⁰.

More than 50 million meticais spent on hiring goods and services without public tenders

The Ministry of Finance hired goods and consultancy services to the value of approximately 50 million meticais (see table 3), in the framework of activities to come off the grey list. The hiring was undertaken without any public tenders. An announcement of contracts awarded. published in the newspaper “Notícias” on 12 April 2023, by the National Directorate of the Treasury, Economic and Financial Cooperation, states that the acquisitions were made under the Special Regime, through the grant from the IDA (International Development Association) for the Inclusion and Financial Stability Project.

Under the terms of the Regulations on Public Contracting, the special regime applies when the financing agreement through which the contract is paid specifically demands the adoption of

a specific regime, or when the adoption of the special contracting regime is a condition for the respective financing agreement or contract.²¹

Table 4. List of goods and services contracted by MEF in the framework of implementing activities to remove Mozambique from the grey list

Number of award	Object	Value	Beneficiary	Person contracted
MZ-MEF-DNT-325020	Individual consultancy services for the development of a risk-based supervision structure to combat money laundering and terrorist financing for insurance and complementary welfare	USD 50.475,00	Supervisory Institute of Mozambique	José António Monreal Hurtado
MZ-MEF-DNT-337512-GO-RFQ	Supply of computers and printers	MZN 1.219.063,04	Executive Committee for Coordinating the Removal of Mozambique from the Grey List	SINEC, LDA (owned by Elizabeth de Fátima Francisco and Roberto Domingos Januário Napualo)
MZ-MEF-DNT-339081-GO-RFQ	Provision of a 4x4 double cabin vehicle	MZN 2.856.000,00	Executive Committee for Coordinating the Removal of Mozambique from the Grey List	Inter Auto Comércio Automóvel Lda.
Contract MZ-MEF-DNT-339736-CS-INDV:Projectn. P166107	Consultancy service for the development and implementation of AML/CFT, supervision tools; procedures and training for non-financial and business professions	USD 180.237,00	Executive Committee for Coordinating the Removal of Mozambique from the Grey List	Bernardo Machado Mota
MZ-MEF-DNT-339737-CS-INDV	Consultancy services for revising the AML/CFT legal and regulatory frameworks for professionals and non-financial businesses	USD 175.661,00	Executive Committee for Coordinating the Removal of Mozambique from the Grey List	Joaquim da Cunha Neto
MZ-MEF-DNT-151618-CS-LCS	Specialist consultancy services for implementation of a cyber-security structure for mobile collateral records in Mozambique	USD 321.791,74	Ministry of Justice, and Constitutional and Religious Affairs	KPMG auditors and consultants AS

Source: “Notícias” newspaper, edition of 12 April 2023, p. 20

As has been ascertained, the three individual consultants hired are Brazilian nationals with experience in preventing and fighting against money laundering. They were hired on the initiative of the Finance Minister, Ernesto Max Tonela, who has worked with Brazilian advisors in other areas.

19 Annual Report of the Attorney-General to the Assembly of the Republic – 2017, p. 53

20 See Directive No. 01/2023, of 25 January 2023 of the Supreme Court.

21 See Art. 8 of Decree No. 79/2022, of 30 December, which approves the Regulations on Hiring Public Works Contactors, the Supply of Goods, and the provision of services to the State

Conclusion

The actions that Mozambique is implementing to come off the FATF grey list are still too tentative to achieve this goal. Essentially, they can be summarised as legal reforms to strengthen measures to prevent and combat money laundering and terrorist financing. Missing, however, are actions to apply the law, which implies investigation and holding responsible those who commit such crimes. Without the components of investigation and responsibility, it will be difficult for the country to come off the grey list in two years, the time the government proposed for removing the country from the list.

Money laundering is a difficult crime to investigate and punish, because to press criminal charges it is necessary to prove the practice of the prior crime, which generated the profits the illicit origin of which the criminals wish to conceal. However, this fact cannot justify the lethargy that has existed over the years regarding the efficient investigation and trial of the agents involved in practicing this type of crime, and which led the country to be included on the FATF grey list.

This being the case, it is important that the country continue to make efforts in the area of investigating and penalising the acts which constitute the crime of money laundering, investing above all in the training of judges and prosecutors, and in improving their procedural performance. This implies greater efficiency in investigating cases of money laundering, and the consequent punishment of the culprits and seizure of the goods involved, which should revert to the State.

In the effort to come off the grey list, there is also an associated risk that the Government may repress and restrict the civic space for the activity of not-for-profit organisations, particularly NGOs and civil society organisations, by passing laws to regulate the sector, and justifying this by the need to combat money laundering and terrorist financing.

There is also a risk of the Government making public acquisitions in violation of the law, using as justification the need for urgency in undertaking activities to remove the country from the grey list.

Recommendations

Faced with the above, the following recommendations are made:

To the Government:

1. Comply with the deadlines laid down by the Executive Coordination Committee to undertake reforms in order to come off the grey list, specifically approving proposals to amend the laws on preventing and combatting money laundering, terrorist financing, and the proliferation of weapons of mass destruction, and holding sector risk assessments;
2. Follow the rules of public contracting established by law to prevent efforts to come off the grey list from becoming transformed into a slush fund;
3. Do not transform the need to regulate the sector of not-for-profit organisations into an opportunity to restrict the space for activity of NGOs and Civil Society Organisations;
4. Create an independent or autonomous regulatory body to inspect the real estate sector.
5. Endow the Public Prosecutor's Office with efficient technological resources for investigating money laundering.

To the Attorney-General's Office:

1. Present consistent and complete information about the various phases of processing money laundering cases.
2. Divulge regularly information concerning money laundering cases being processed.
3. Present, in the annual report of the Attorney-General on the state of justice in the country, aggregated statistical data on cases of money laundering (including cases processed by the courts, and still being processed).
4. Present the values and assets seized and which have reverted to the State in money laundering cases.
5. Provide continual technical training for magistrates of the Public Prosecutor's Office.

Documents consulted

- FATF (2022). Report on the State of Effectiveness and Compliance With the FATF Standards. Available on <https://www.fatf-gafi.org/en/publications/Fatfgeneral/Effectiveness-compliance-standards.html> (consulted on 7 June 2023)
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- Law no. 11/2022, of 7 July, Amends Law no. 14/2013, of 12 August, Law on Preventing and Combatting Money Laundering and Terrorist Financing.
- Decree No. 79/2022, of 30 December, which Approves the Regulations on Hiring Public Works Contractors, the Supply of Goods and the Provision of Services to the State
- Law No. 7/2002, of 5 February – Revoked - (Established the legal regime for preventing and repressing the use of the financial system for acts of laundering capital, goods, products or rights deriving from criminal activities defined in terms of the present Law).



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