



PUBLIC PROCUREMENT AND PUBLIC-PRIVATE PARTNERSHIPS

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By: Aldemiro Bande, Egas Jossai, Gift Essinalo e Rui Mate

Beneficial Owners

Lack of Law Promotes Corruption in the Extractive Sector and Public Procurement

SUMMARY

Mozambique does not yet have specific law on beneficial owners. The government recently reinforced certain legal frameworks to include provisions obliging companies that establish commercial relations with the state to register and declare their beneficial owners. The measure is a step towards the transparency of beneficial owners. However, the reforms that have been made are rather deficient and, in practice, hinder effective public scrutiny of companies that establish commercial relations with the state. The lack of transparency of the beneficial owners of entities that do business with the state favours corruption, especially in the extractive sector and in public procurement. This paper presents the main legal reforms carried out by the government to promote transparency of beneficial owners and analyses their main limitations, with a focus on their implications for the extractive industry and public procurement, which are two areas extremely exposed to corruption risks. The paper is the result of documentary research complemented by literature search.

* In case of doubts, suggestions and questions related to this note, contact: aldemiro.bande@cipmoz.org

1. INTRODUCTION

The Mozambican government has yet to pass specific legislation on beneficial owners. Reforms have recently been made to the Commercial Code and the Public Procurement Regulations to include, among other things, measures that oblige companies that establish commercial relations with the state to register and declare their beneficial owners. However, the reforms made have gaps which, in practice, prevent effective public scrutiny of commercial companies.

The adoption of a legal framework on the transparency of beneficial owners¹ is a crucial step in the fight against

the “real owners” of companies that do business with the state.⁴ In Africa, around 30 countries have already passed legislation requiring companies to declare or register their beneficial owners⁵. In Southern Africa, Zambia⁶, South Africa⁷ and Mozambique are among the few countries in the region with some concrete legal reforms in this area.

In Mozambique, the government has specifically committed itself to legal reforms to promote transparency of beneficial owners, first under the commitments made by the government within the framework of the Extractive Industry Transparency Initiative (EITI) in 2016, then in the framework of access to funds from the International

Within the framework of access to IMF funds and the FATF recommendations, in 2022 the government was quicker to approve the Law on Preventing and Combating Money Laundering and Terrorist Financing¹⁰. In addition, the government revised the Commercial Code¹¹ and the Public

corruption, money laundering and other financial crimes². Concealing the identity of the people who actually benefit from the exploitation of natural resources or public funds through public procurement favours high risks of corruption, money laundering and tax evasion.³

Transparency of beneficial owners is high on the international agenda. Data from *Open Ownership* shows that more than 100 countries in the world have committed to legal reforms to promote the open disclosure of data on

Monetary Fund's (IMF) Rapid Financing Facility in 2020⁸, and more recently, within the framework of the recommendations of the Financial Action Task Force (FATF).

As part of the EITI, the country undertook to carry out a survey of the names of the “beneficial owners” of mining companies, the publication of which would begin in 2020. However, eight (8) years on, the country has still not publicised or established a regulatory framework on beneficial ownership⁹, a crucial instrument for promoting effective transparency in the management of extractive resources.

Procurement Regulation¹² to include provisions obliging commercial companies to declare their beneficial owners.

However, with regard to the beneficial owners, these legal instruments still have loopholes that favour concealing the beneficial owners of entities that have economic and commercial relations with the state domestically or abroad.

¹ People who actually own, control or benefit from a commercial company. Cfr. Open Ownership (2023) *Driving the global shift towards beneficial ownership transparency*. Available at: https://openownership.orgprod-1b54.kxcdn.com/media/documents/Introduction_to_BOT_and_OO.pdf. Accessed 23 July 2023

² World Bank (2021) *Beneficial Ownership: increasing transparency in a simple way for entrepreneurs*. Available at: <https://blogs.worldbank.org/developmenttalk/beneficial-ownership-increasing-transparency-simple-way-entrepreneurs>. Accessed 23 July 2023

³ In the case of the extractive sector, the phenomenon has already been proven by the scandal known as the Panama Papers (see <https://panamapapers.org/panama-papers-the-secrets-of-dirty-money>). In the public procurement sector, CIP has already published several cases of conflict of interest, including the case of the supply of licence plates, the tender for which was awarded to a company owned by the family of then president Armando Guebuza, available at: https://cipmoz.org/wp-content/uploads/2018/08/374_CIP-inatter-v1-small.pdf.

⁴ Open Ownership (2023) *Driving the global shift towards beneficial ownership transparency*. Available at: https://openownership.orgprod-1b54.kxcdn.com/media/documents/Introduction_to_BOT_and_OO.pdf. Accessed 23 July 2023

⁵ Tax Justice Network (2023) *Beneficial Ownership Transparency in Africa in 2022*. Available at: <file:///C:/Users/Admin/Downloads/SSRN-id4395017.pdf>. Consulted on 20. Jul.2023

⁶ Open Ownership (2021) *Zambia commits to beneficial ownership transparency*. Available at: <https://www.openownership.org/en/news/zambia-commits-to-beneficial-ownership-transparency/#:~:text=In%20November%202017%2C%20the%20Government%20of%20Zambia%20amended,at%20the%20Patents%20and%20Companies%20Registration%20Agency%20%28PACRA%29>. Consulted on: 28.07.2023

⁷ Open Ownership (2022) *Beneficial ownership transparency and data protection in South Africa*. Available at: <https://openownership.orgprod-1b54.kxcdn.com/media/documents/oo-policy-briefing-bot-and-data-protection-in-south-africa-2022-12.pdf>. Accessed 28 July 2023

⁸ Open Ownership. Mozambique. Available at: <https://www.openownership.org/en/map/country/mozambique/>. Consulted on 10 July 2023

⁹ Westenberg & Sayne (2017) define a beneficial owner as an individual who directly or indirectly exercises substantial control over, has a substantial economic interest in, or receives a substantial economic benefit from a company. These include public officials, their close associates or even family members involved in corruption who receive a significant part of the company's economic benefit, not necessarily through a formal shareholding (i.e. shares in the company), but also through indirect relationships such as influence peddling.

¹⁰ Cfr. (Law no. 11/2022, of 7 July).

¹¹ Cfr. (Decree-Law no. 1/2022 of 25 May)

¹² Cfr. (Decree no. 79/2022, of 30 December).

For example, the new public procurement regulations require companies with contracts worth 60 million meticaís or more to declare their beneficial ownership, which leaves out many contracts worth less, but which together represent a significant burden on public finances. Setting the minimum value for the disclosure of beneficial owners at 60 million meticaís is absurd in a context where public contracts can be divided into lots below that value, thus allowing companies to escape the obligation to declare Beneficial Owners.

Furthermore, both the Public Procurement Regulations and the Commercial Code do not oblige the “*open disclosure of beneficial owners*”, which could mean that they do not allow effective public scrutiny of companies that do business with the state. Disclosure implies the creation of a database, which can be public, for consultation.

1.1. BENEFICIAL OWNERS IN PUBLIC PROCUREMENT

Public *procurement* is one of the areas where the biggest corruption scandals occur in the country, many of them involving companies linked to the political elite or, technically, Politically Exposed Persons.

The lack of transparency about the beneficial owners of companies that contract with the state, especially those owned by politically exposed figures, has favoured corruption, conflicts of interest and influence peddling in *procurement* processes¹³.

Disclosure of the beneficial owners of companies that supply goods and services to the state is one of the innovative measures of the new public procurement regulation approved by decree 79/2022 of 30 December. Essentially, the regulation establishes that the winning bidder must provide information on its beneficial owners in cases where the estimated value of the contract is more than sixty million meticaís¹⁴.

This paper presents the main legal reforms made by the government to promote beneficial ownership transparency and analyses their main limitations, with a focus on the implications these represent for the extractive industry and public procurement, which are two areas extremely exposed to corruption risks. The paper argues that the legal reforms carried out by the government, both in the Commercial Code and in the Public Procurement Regulations, represent positive advances for the transparency of beneficial owners; however, they have gaps which, in practice, hinder effective public scrutiny of the beneficial owners of companies that establish commercial relations with the state. Finally, the paper recommends the urgent approval by the government of more comprehensive legislation on beneficial ownership and the creation of an independent body to manage the register and publicise beneficial ownership.

Transparency of the beneficial owners in public procurement processes is important for greater public scrutiny of the people who actually own or control the companies that do business with the state, and at the same time for reducing corruption and preventing conflicts of interest. However, the new public procurement regulation, which has already been revised four times, is far from solving the problem of disclosing the true owners of companies involved in business with the state, due to the measure's failure to cover all companies that compete in public tenders, coupled with the lack of independence of public institutions, which results in their lack of openness and secrecy.

¹³ CMI & International Transparency (2023) *The uses and impact of beneficial ownership information*. Available at: <https://www.u4.no/publications/the-uses-and-impact-of-beneficial-ownership-information>. Consulted on: 28.Jul.2023

¹⁴ Cfr. Article 49(2)(v) of Decree 79/2022 of 30 December.

1.1.1. NON-COMPREHENSIVE MEASURES FAVOUR THE ANONYMITY OF THE “REAL OWNERS” OF THE COMPANIES BIDDING FOR PUBLIC TENDERS

The new public procurement regulations establish, in article 49(2)(v) of Decree 79/2022 of 30 December, that the winning bidder must provide information on its beneficial owners in cases where the estimated value of the contract exceeds 60 million meticaís. Thus, the declaration of the beneficial owners of the winning bidder must be made 10 days after notification, under the terms of article 111(2) of the same decree.

However, as can be seen from the articles above, the requirement to declare the beneficial owners does not cover all commercial companies that contract with the state. For example, those that have not won tenders and those whose contract value is less than sixty million meticaís are exempt, creating conditions in which, in many cases, “the real masters” of the companies that do business with the state escape public scrutiny.

The fact that this requirement does not apply to all commercial companies from the tender stage onwards is problematic, as it clashes with one of the primary objectives of the transparency of the beneficial owners in public *procurement*, which is to detect signs of fraud and prevent conflicts of interest in *procurement* processes¹⁵.

The rules set out in the regulation make it impossible, for example, to eliminate companies owned by people with conflicts of interest beforehand¹⁶, as well as making it difficult to carry out any effective public scrutiny while public procurement processes are taking place.

Another aspect to highlight is that the regulation limits the disclosure of beneficial owners of companies in cases where the value of the contract does not exceed 60 million meticaís. This provision makes room for beneficial owners of companies whose contract value is less than that

determined in the regulation to remain anonymous, thus favouring cases of corruption and conflicts of interest. Underlying this imposition seems to be the idea that only contracts with a high monetary value are worth monitoring. However, risks of corruption and conflicts of interest do not only occur in contracts involving large sums of money, but also in the acquisition of ordinary goods and services or the contracting of small-scale works¹⁷, where the value of the contract often does not exceed 60 million meticaís. In fact, in some public sectors, this figure represents the annual turnover of a company awarded state contracts¹⁸.

For example, in the health sector, where there are suspicions of corruption and conflicts of interest in public contracts, there are suppliers who, in one year, win several public tenders worth less than 60 million meticaís, but when added together exceed this amount. Even so, many of these small contracts suffer from corruption¹⁹. The same argument applies to the majority of municipal *procurement* processes, the amounts of which tend to be modest, but are not without risks of corruption and conflicts of interest²⁰. Also in the health sector, it is common for tenders to be split into lots (for relatively low amounts) and then awarded to companies owned by the same beneficial owners.²¹

By limiting the disclosure of beneficial owners to cases where the value of the contract exceeds 60 million, the public procurement regulation continues to favour the anonymity of many commercial companies that do business with the state, excluding them from public scrutiny.

The lack of transparency of the beneficial owners in Mozambique has favoured corruption in public *procurement*, especially in a context in which politically exposed people, businessmen linked to the political elite and bureaucrats who occupy a privileged position in the public administration, hide their identity through limited

¹⁵ **Open Ownership** (2021) *Beneficial ownership transparency: Transforming public procurement in South Africa*. Available at: <https://www.openownership.org/en/blog/beneficial-ownership-transparencytransformingpublicprocurementinsouthafrica/#:~:text=Beneficial%20ownership%20transparency%20%28BO%29%20is%20an%20additional%20data,establishment%20of%20a%20public%20central%20registry%20of%20BO>. Consulted on: 22 Jul 2023

¹⁶ **THAKUR, C** (2020) *Beneficial ownership disclosure is indispensable in the fight against procurement 'hyenas'* <https://www.dailymaverick.co.za/article/2020-08-21-beneficial-ownership-disclosure-is-indispensable-in-the-fight-against-procurement-hyenas/>. Accessed 22 July 2023

¹⁷ **CIP** (2020) *Who benefits from the Ministry of Health's Public Procurement errors/failures?* Available at: [https://www.cipmoz.org/pt/2020/05/03/quem-se-beneficia-](https://www.cipmoz.org/pt/2020/05/03/quem-se-beneficia-dos-erros-falhas-do-procurement-publico-do-ministerio-da-saude/)

[dos-erros-falhas-do-procurement-publico-do-ministerio-da-saude/](https://www.cipmoz.org/pt/2020/05/03/quem-se-beneficia-dos-erros-falhas-do-procurement-publico-do-ministerio-da-saude/). Consulted on 20 July 2023

¹⁹ **CIP** (2021) *How the fight for 375 million meticaís paralysed the import of medicines for more than two years in the moh*. Available at: <https://macua.blogs.com/files/cip-como-a-luta-pelos-375-milho%CC%83es-meticaís.pdf>. Accessed 21 July 2023

²⁰ **Deutsche Welle** (2017) *Mozambique: Corruption in procurement in Vilankulo*. Disponível em: <https://www.dw.com/pt-002/mo%3a7ambique-corrup%C3%A7%C3%a3o-em-adjudica%C3%A7%C3%ab5es-em-vilankulo/a-41296386>. Accessed 21 July 2023

²¹ **CIP** (2018) *The Ministry of Health's millionaire business networks: Who are they, how do they operate, how much do they earn?* Available at: https://cipmoz.org/wp-content/uploads/2018/07/As_redes_de_negocios_milionarios_do_Ministerio_da_Saude_MISAU.pdf. Accessed 21 July 2023

companies or companies with a complex shareholder structure in order to do business with the state without coming under public scrutiny.

Therefore, for the sake of transparency in public procurement, it is necessary for commercial companies,

1.1.2. FAILURE TO OPENLY DISCLOSE DATA ON BENEFICIAL OWNERS HINDERS PUBLIC SCRUTINY

One of the positive aspects of the new regulation is that it makes the conclusion of the contract between the winning company and the contracting authority conditional on the presentation of the beneficial owners, in accordance with article 114 of Decree 79/2022 of 30 December. The measure is in line with international best practice, which recommends sanctions as a way of dissuading companies from hiding their beneficial owners²².

However, the measure is far from allowing open disclosure of data on beneficial owners in public procurement.

The same public procurement regulation is silent on the open disclosure of data on the beneficial owners of companies that contract with the state. Thus, assuming that the declaration of data on the beneficial owners of companies is submitted to the contracting authority, there are serious risks of this type of information being withheld when requested by the public, especially in cases where the companies involved are owned by politically exposed people or officials who hold a privileged position in the institution.

These risks become more eminent given the lack of independence of the competent authorities - who generally make the final decision in *procurement* processes - from the political power that appoints them²³.

regardless of the value of the contract and the fact that they have won a tender, to provide a declaration regarding their beneficial owners. In fact, it is necessary to revise the law to ensure greater transparency of the beneficial owners of companies that contract with the state.

This lack of independence can lead to cases of conflicts of interest involving politically exposed people escaping public scrutiny by concealing information about the beneficial owners of these companies.

In Mozambique, even with the approval of the Right to Information Law, the culture of secrecy and closure of public institutions still prevails²⁴. Thus, the fact that the public procurement regulation requires the declaration of the beneficial owners does not necessarily mean that the data will be made available to the general public.

One of the mechanisms to ensure that the disclosure of data on the beneficial owners of companies contracting with the state is not subject to the discretionary power of the competent authority is the establishment of an independent public body responsible for registering and disclosing data on the beneficial owners of companies²⁵. The absence of a body responsible for registering and publicising data on beneficial owners is a major weakness.

The experience of Slovakia, one of the pioneers in implementing mechanisms for the transparency of beneficial owners in public procurement, shows that the establishment of a specific entity to register beneficial owners must be accompanied by exemplary sanctions for companies that do not provide a statement regarding their beneficial owners, which include, for example, restrictions on participation in *procurement* processes, among others²⁶

²² Tax Justice Network (2023) *Beneficial Ownership Transparency in Africa in 2022*. Available at: <file:///C:/Users/Admin/Downloads/SSRN-id4395017.pdf>. Consulted on 20. Jul.2023

²³ CIP (2020) *Public Procurement in Mozambique: Legislative Reforms without Effect on the Fight against Corruption*. In: *Governance and Integrity in Mozambique*. Available at: <https://cipmoz.org/wp-content/uploads/2020/11/Governac%CC%A7a%CC%83o.pdf>. Consulted on 20. Jul. 2023

²⁴ MISA (2018) *Transparency Assessment: citizens' analysis of government openness*. Available at: [https://www.misa.org.mz/index.php/publicacoes/relatorios/direito-a-](https://www.misa.org.mz/index.php/publicacoes/relatorios/direito-a)

<informacao-1/108-instituicoes-abertas-e-fechadas-2018-relatorio-de-analise-sobre-o-nivel-de-implementacao-da-lei-do-direito-a-informacao-em-mocambique/file>. Consulted on 20 July 2023

²⁵ Open Ownership (2020) *Early impacts of public beneficial ownership registers: Slovakia*. Available at: <https://www.u4.no/publications/the-uses-and-impact-of-beneficial-ownership-information>. Consulted on 20 July 2023

²⁶ Transparency International (2023) *The uses and impact of beneficial ownership information*. Available at: <https://www.u4.no/publications/the-uses-and-impact-of-beneficial-ownership-information>. Consulted on: 23.Jul.2023

1.2. BENEFICIAL OWNERSHIP IN THE EXTRACTIVE INDUSTRY: LACK OF LAW EXACERBATES RISKS OF CORRUPTION AND CONFLICTS OF INTEREST

As the scandal known as the *Panama Papers*²⁷ showed in 2016, concealing the identity of the people who actually benefit from the exploitation of natural resources entails high risks of corruption, money laundering and tax evasion in the extractive sector²⁸.

However, unlike the area of public procurement, whose recently approved regulation obliges companies that contract with the state to declare their beneficial owners, in the extractive industry there is still no regulation that obliges companies operating in the sector to make such a declaration.

The recently approved Commercial Code establishes in Article 99(1) that the company must keep information on the identification of the beneficial owner²⁹. Although this measure extends to companies operating in the extractive sector, it does not oblige them to provide any kind of declaration of beneficial owners, nor does it establish mechanisms for publicising this information.

Under the terms of the country's 2016 EITI commitments, the government was expected to approve a regulation requiring disclosure of beneficial owners in the extractive industry by 2020. However, despite Mozambique being rated as one of the most transparent countries by the EITI³⁰, the country has done nothing concrete to promote the transparency of beneficial owners in the extractive sector.

The risk arising from the absence of a regulatory framework on beneficial ownership is most present in the mining sector,

which is highly dominated by influential figures from the political elite.

The massive presence of these figures in mining projects entails risks of corruption, influence peddling and impunity, which is why it is necessary to register and publicise the

ultimate beneficiaries of all extractive ventures operating in the country. Knowing who controls the companies that obtain licences to extract minerals is crucial to mitigating the risks of corruption and conflicts of interest in the extractive sector³¹.

Transparency of beneficial owners is an essential mechanism for combating tax evasion in the extractive sector. For example, in 2019 the Nigerian Mining Cadastre Office made the award and renewal of mining licences conditional on companies submitting a declaration of beneficial owners. On the one hand, the measure made it possible to identify former holders of mining titles who wanted to avoid paying taxes by abandoning their old licences and applying for new ones through newly created companies.

On the other hand, the measure has made it possible for the institution to collect more revenue, since when the mining title holders listed in the declarations of companies applying for new licences are identified as having interests in companies that have not paid annual taxes, they are obliged to settle their debts under penalty of having their new licence applications rejected³².

²⁷ The Panama Papers are a set of 11.5 million confidential documents authored by the Panama law firm Mossack Fonseca that provide detailed information on more than 214,000 offshore tax haven companies, including the identities of shareholders and directors. The documents show that some of the shell companies mentioned may have been used for illegal purposes, including fraud, drug trafficking and tax evasion.

²⁸ <https://panamapapers.org/panama-papers-the-secrets-of-dirty-money>

²⁹ See Decree-Law 1/2022 of 25 May

³⁰ *Diário Económico* (2023) *MIREME: "Mozambique With More Transparency in the Extractive Industry"*. Available at:

<https://www.diarioeconomico.co.mz/2023/06/29/oilgas/extractivas/mireme-mocambique-com-mais-transparencia-na-industria-extractiva/>. Accessed 28 July 2023

³¹ *CMI & International Transparency* (2023) *The uses and impact of beneficial ownership information*. Available at: <https://www.u4.no/publications/the-uses-and-impact-of-beneficial-ownership-information>. Consulted on: 28.Jul.2023

³² *EITI* (2022) *Who benefits? How company ownership is used to detect and prevent corruption*. Available at: https://eiti.org/sites/default/files/2022-12/OE%20Policy%20brief_Who%20benefits_0.pdf. Consulted 23 July 2023.

2. PEPS WITH BUSINESS INTERESTS IN THE EXTRACTIVE SECTOR

In Mozambique, political elite participation in extractive sector business poses serious risks of corruption and conflicts of interest in the extractive industry. At the same time, this may be one of the reasons behind the government's reluctance to approve measures to disclose the beneficial owners of companies operating in the sector.

The list below shows some politically exposed people with business interests in the industry.

Cristóvão Artur Chume, current Minister of Defence - owner of the companies Monapo Stone, limitada³³ and Esmo Invest Mozambique, limitada³⁴. Minister Chume's company, Monapo Stone has a licence application 11550L submitted on 15 May 2023 for the prospecting of Aquamarine, Beryl, Copper, Emerald, Spodumene, Iron, Garnet, Lepidolite, Associated Ores, Morganite, Gold, Quartz, Ruby Tantalite and Tourmaline.

Alberto Awa Januario Nkutumula, former Minister of Youth and Sports - owner of Changara Mines³⁵; and Nkhazi Capital Lda³⁶ (other partners - Josina Machel and Guguiane Pachinuapa), of which Changara mines has a mining licence number 11039C granted on 2 March 2023 and valid until 2 March 2048.

Raimundo Pachinuapa, a war veteran - owner of 20 companies formerly called Mwiriti Mining Lda, which from 2022 will be called NAIROTO MINING³⁷; and EME Investimentos SA³⁸, the concessions of Mwiriti Mining, Limitada are for gold mining in the district of Montepuez and the concessions of Cabo Delgado Inertes e Minerais, Sociedade Unipessoal, Limitada are for the mining of stone and construction sand in the districts of Palma, Mecufi, Pemba and Metuge.

Table 1. Raimundo Pachinuapa's companies with mining concessions

Licence number	Company	Date of grant	End Date of Concession	Type of Licence	Minerals to explore
9783C	Mwiriti Mining 01	17 June 2019	17 June 2044	Mining Concession	Gold and Associated Minerals
9786C	Mwiriti Mining 06	17 June 2019	17 June 2044	Mining Concession	Gold and Associated Minerals
9784C	Mwiriti Mining 02	05 July 2019	05 July 2044	Mining Concession	Outo and Associated Minerals
9787C	Mwiriti Mining 04	17 June 2019	17 June 2044	Mining Concession	Gold and Associated Minerals
9788C	Mwiriti Mining 05	17 June 2019	17 June 2044	Mining Concession	Gold and Associated Minerals
9785C	Mwiriti Mining 03	17 June 2019	17 June 2044	Mining Concession	Gold and Associated Minerals
8554L	Mwiriti Mining 17	05 December 2017	05 December 2022	Prospecting and research	Gold
8537L	Mwiriti Mining 15	15 November 17	15 November 2022	Prospecting and Research	Gold
8532L	Mwiriti Mining 10	23 August 2017	23 August 2022	Prospecting and Research	Graphite, Base Metals, Associated Minerals and Gold
8773L	Mwiriti Mining 19	26 October 2017	26 October 2022	Prospecting and Research	Gold
8693L	Mwiriti Mining 18	28 February 2019	28 February 2024	Prospecting and Research	Graphite, Base Metals, Associated Minerals and Gold

³³ Cfr. BR no. 92, Series III of 15 May 2023 - p. 2950

³⁴ Cfr. BR no. 135, Series III of 11 November 2016 - p. 7132

³⁵ Cfr. BR no. 38, Series III of 24 February 2023 - p. 1172

³⁶ Cfr. BR no. 73, Series III of 12 April 2018 - page 2399

³⁷ Cfr. BR no. 150, Series III of 4 August 2022 - p. 5087

³⁸ BR no. 18, Series III, 2nd Suppl. of 8 May 2009 - p. 352-(22)

8534L	Mwiriti Mining 12	28 February 2019	28 February 2024	Prospecting and Research	Graphite, Base Metals, Associated Minerals and Gold
8538L	Mwiriti Mining 16	28 August 2017	28 August 2022	Prospecting and Research	Graphite, Base Metals, Associated Minerals
8531L	Mwiriti Mining 9	23 August 2017	23 August 2022	Prospecting and Research	Graphite, Base Metals, Associated Minerals
8433L	Mwiriti Mining 11	13 November 2017	13 November 2022	Prospecting and Research	Graphite, Base Metals, Associated Minerals and Gold
8530L	Mwiriti Mining 08	20 February 2018	20 February 2023	Prospecting and Research	Graphite, Base Metals, Associated Minerals and Gold

Source: Data compiled by the authors from the Mining Cadastre Map

Mateus Óscar Kida, war veteran, father of Justice Minister Helena Mateus Kida - owner of Sodail Moz Lda³⁹; Minerais Vermelho Lda⁴⁰. The former combatant has an application for a licence pending, and Minerais Vermelho's licence 9289L is for prospecting and researching diamonds and other minerals.

Alcinda António De Abreu, the former Minister of the Environment, owns several companies in the extractive sector, but in order to camouflage her presence in the sector, she joined forces with two other partners to create GRUPO VIDERE, LIMITADA⁴¹ and it was through this group that they began to create companies in the mining sector, namely SOUTH ORIENT, LIMITADA⁴², VINDIGO S.A⁴³, OVAHANA MINERAIS LIMITADA⁴⁴ has an application for licence 9895C pending for the exploration of Corundum, Graphite, Garnet, Associated Minerals, Ruby, Tourmaline and Vanadium, MOTA MINERAL MOÇAMBIQUE

LIMITADA⁴⁵ with 3 mining licences, two of which 3873C and 3874C were granted on 27 September 2011 valid until 27 September 2036 for the exploration of Feldspar, Associated minerals, Quartz and the third 8568C granted on 22 May 2018 valid until 22 May 2043 for the exploitation of Marine Water, Morganite, Tourmaline, MINAS MOATIZE, LIMITADA, GRUPO VIDERE MINING, LIMITADA. This group has two pending licence applications, one 6958L for the exploitation of limestone and the other 6591L for the exploitation of gold and associated minerals.

Cosme Jacinto Nyusi, brother of the current President of the Republic of Mozambique (PR), Filipe Jacinto Nyusi - one of the partners in Flomining SA; Maganhux, Lda; Dinema Minerais, Lda; JOMACO Minerais, Lda; BEITTA Resources, Lda; and Crystal Mining, Lda. Of the six registered companies, only Flomining SA has mining concessions - 6 in force and 2 pending, as shown in the table below

Table 2 Nyusi Family companies with mining concessions

Licence number	Date of grant	End Date of Concession	Type of Licence	Minerals to explore
8598L	15 May 2017	15 May 2022	Prospecting and research	Diamond
8589L	31 May 2017	31 May 2022	Prospecting and Research	Gold and associated minerals
8596L	31 May 2017	31 May 2022	Prospecting and research	Diamond
8684L	01 June 2017	01 June 2022	Prospecting and research	Gold and Associated Minerals
8595L	01 June 2017	01 June 2022	Prospecting and research	Gold and Associated Minerals

³⁹ Cfr. BR no. 121, Series III of 24 June 2022 - p. 4170

⁴⁰ Cfr. BR no. 14, Series III of 19 January 2018 - page 456

⁴¹ BR no. 19, Series III, Suppl. of 12 May 2011 - p. 448-(14)

⁴² Cfr. BR no. 29, Series III of 20 July 2011 - page 731

⁴³ BR no. 30, Series III, Suppl. of 15 April 2013 - p. 1098-(33)

⁴⁴ Cfr. BR no. 132, Series III of 4 November 2016 - p. 6985

⁴⁵ Cfr. BR no. 108, Series III of 8 June 2020 - p. 3072

8624C	01 June 2017	01 June 2042	Mining concession	Gold and Associated Minerals
9473L	Pending	-	Prospecting and research	Graphite
9474L	Pending	-	Prospecting and Research	Graphite

Source: Map of the Mining Cadastre

3. CONCLUSION

Mozambique has shown some commitment to introducing reforms with a view to promoting transparency among beneficial owners, thus positioning itself among the few countries in the southern African region with a legal framework that deals with beneficial owners. However, the legal instruments that have been approved so far, namely the new Commercial Code and the new Public Procurement Regulation, are proving to be insufficient and have enough limitations to hinder the transparency of beneficial owners. For example, the existing dispersed legislation does not mention the “open disclosure of beneficial owners”, which could mean that it does not allow effective public scrutiny of companies that do business with the state. Disclosure would imply the creation of a database, which could be public, for consultation.

In addition, only the Public Procurement Regulation imposes the obligation to declare beneficial owners, but the measure is not comprehensive enough for all commercial companies. In addition, only this regulation provides for some kind of sanction for companies in the event of non-compliance, making the conclusion of the contract conditional on the declaration of beneficial owners, but even so, the measure is restricted to commercial companies negotiating contracts with the state whose values exceed 60 million meticaís.

It is therefore clear that the reforms carried out so far do not allow for acceptable transparency of the beneficial owners. The lack of transparency of beneficial owners, whether in the extractive sector or in public *procurement*, opens the door to corruption, conflicts of interest and other financial crimes that harm the public purse.

RECOMMENDATIONS

In fact, for the sake of transparency, it is recommended:

The Parliament:

- Approval of a more comprehensive law on beneficial owners that applies to all commercial companies, including companies operating in the extractive sector, in accordance with the commitments made by the government in 2016 within the framework of the EITI;

The Government:

- Creation of an organisation responsible for recording and disseminating data on beneficial owners;

Cooperation Partners:

- Support the development of robust regulatory frameworks on beneficial ownership, including the design and establishment of entities responsible for registering beneficial owners;
- Provide technical assistance to the government in the design and implementation of centres for the registration/enrolment of beneficial owners;
- Engage with civil society in advocacy activities to promote the creation and approval by the government of a robust legal framework on effective beneficiaries;

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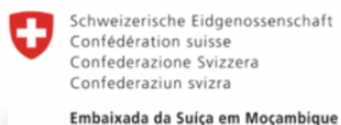
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Editorial Information:

Director: Edson Cortez

Authors: Aldemiro Bande, Egas Jossai,
Gift Essinalo e Rui Mate

Peer Review: Edson Cortez and Borges Nhamirre

Language Review: Samuel Monjane

Property: Centro de Integridade Pública

Rua Fernão Melo e Castro,
Bairro da Sommerschild, nº 124
Tel: (+258) 21 499916 | Fax: (+258) 21 499917
Cel: (+258) 82 3016391
f @CIP.Mozambique t @CIPMoz
www.cipmoz.org | Maputo - Moçambique