



CENTRO DE INTEGRIDADE PÚBLICA

Anticorrupção · Transparência · Integridade

Integrity Programme in Environmental Governance

Report on the analysis of the legal framework for the environment and climate change



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Executive Summary

This report, produced by the Centre for Public Integrity (CPI) under its environmental governance integrity programme, aims to critically analyse the legal framework for the environment and climate change in Mozambique, pointing out gaps and contradictions in the legislation, shortcomings in implementation, and proposing recommendations for the strengthening of the framework. The methodology included the survey, interpretation and analysis of political, legal and regulatory instruments, as well as a review of relevant reports and documents.

Mozambique, driven by international commitments such as the 1992 Rio Conference and Agenda 21, has set up an institutional and legal framework for the environment. The creation of MICOA in 1994 marked the beginning of centralised environmental management, followed by the approval of the National Environment Policy (PNA) in 1995 and the Environment Act in 1997. Over the years, the country has ratified a wide range of international and regional conventions and protocols, such as the Conventions on Climate Change, Biodiversity and the SADC Protocol on Sustainable Development.

However, in spite of this formal progress, environmental governance in Mozambique faces persistent and complex challenges. The successive ministerial restructurings, such as the transition from MICOA to MITADER and, more recently, to the Ministry of Agriculture, Environment and Fisheries (MAAP), raise concerns about the sustainability and prioritisation of the environmental agenda, with the risk of marginalisation in relation to the agriculture and fisheries sectors. At the provincial level, the duplication of bodies (DPDTA and SPA) with overlapping mandates results in inefficiencies and dispersion of resources. The National Council for Sustainable Development (CONDES), a key consultative body, has been functioning with little impact and inactivity.

The legal framework, although wide-ranging, is marked by significant gaps. The 2004 Constitution, for example, doesn't explicitly mention climate change or the rights to water and sanitation, and the Environment Law requires revision and regulation in areas such as environmental insurance, objective liability and environmental incentives. There is a noticeable absence of specific legislation for sustainable agriculture and sustainable construction, as well as for electronic waste management. The implementation of existing regulations, such as those on plastic bags and Extended Producer and Importer Responsibility for Packaging, is weak and ineffective.

At the local government level, while municipalities have environmental regulatory powers, they lack specific municipal policies and are confronted with financial, technical and human resource constraints. District governance bodies, which are still subject to a regime of deconcentration, are restricted in their capacity by their dependence on central government.

In the environmental financing domain, the extinction of FUNAB and the transfer of FNDS to the agriculture sector have led to environmental revenues being subordinated to other priorities, although the recent merger into MAAP may represent an opportunity for improvement. Holding people accountable for environmental crimes is a challenge, with most offences remaining unpunished due to the complexity of the situation, lack of resources for investigation and lengthy court proceedings.

The main recommendations include:

- Reviewing and updating the National Environment Policy and the Environment Law, by incorporating climate change, strengthening transparency and public participation, and expanding the accountability mechanism;
- Complete the missing regulations and strengthen the implementation of the legal framework;
- Develop framework laws for sustainable agriculture and climate change, as well as a Sustainable Building Code;

- Strengthen inter-institutional coordination and revitalise the role of CONDES;
- Consider creating a national environmental agency with executive functions (redefining AQUA) to ensure continuity and autonomy;
- Support municipalities in drafting regulations and in capacity building;
- Increase public funding and strengthen environmental justice, including regulating the right to public action and capacity building for environmental crimes;
- Disseminate the legal framework extensively and promote public participation.

1. Introduction

The Centre for Public Integrity (CIP) is a Mozambican civil society organisation founded in 2005 to promote transparency and integrity and combat corruption in the public sector. It is based on four programmatic pillars: political transparency and integrity; transparency and integrity in the public sector; justice and anti-corruption; and environmental governance.

As part of its mission to combat corruption, with financing from Transparency International, CIP is carrying out a programme on environmental governance integrity that is designed to investigate cases of environmental crime in extractive projects. During the two years of the project, CIP will investigate, expose, raise awareness and hold accountable those involved in environmental criminality.

This work is intended to map and analyse the legal framework for the environment and climate change with a view to identifying any gaps and contradictions in the regulatory domain. It also seeks to identify any gaps in the implementation of environmental issues and to make recommendations on how to fulfil, improve and/or reinforce the legal and environmental framework.

In terms of methodology, the study involved a survey, interpretation and critical analysis of political, legal and regulatory instruments, as well as a compilation of all documentation which was considered relevant to the topic. Such documents include reports, surveys, articles published by the media, among others.

The study is organised into five chapters. The first provides a brief history and overview of the political, legislative and institutional framework on the environment and climate change; the second focuses on the legal framework for the environment and mines; the third addresses environmental governance; the fourth discusses the public financing regime for the environment sector; and the fifth chapter deals with environmental crimes. The conclusions and recommendations are presented at the end.

It is worth mentioning that this work was finalised during a period of transition between government cycles, with structural changes to the institutional framework for environmental issues being highlighted, which we will endeavour to present

2. Brief history and background

The creation of the legal framework for the environment is a result of the Mozambique government's commitments undertaken during its participation in the United Nations Conference on Environment and Development, held in Rio de Janeiro, Brazil, in June 1992. The conference approved an important Declaration of Principles (Rio Declaration) and a programme to guide states (Agenda 21)¹.

As regards the international commitments derived from the Rio Conference, Mozambique ratified the United Nations Conventions on Climate Change and Biological Diversity through Resolutions No. 1/94 and 2/94 of 24 August, a crucial and decisive step for subsequent legislative and institutional efforts.

In line with the commitments assumed following the signing of Agenda 21, in 1994 the Ministry for the Co-ordination of Environmental Action was created through Presidential Decree No. 2/94 of 21 December. The

¹ <https://www.un.org/en/conferences/environment/rio1992> Accessed on 14 November, 2024.

Government Programme for 1995/1999, approved by the Assembly of the Republic through Resolution No. 4/95 of 9 May, determined that “the protection of nature is an important component in the development process. Any economic and social initiative which neglects environmental protection represents a threat to the future of the community, and the Government’s action must consequently be directed towards preserving the ecological balance”².

The National Environmental Policy was approved a year later, by means of Resolution No. 5/95 of 3 August. Its key objectives were: (i) to guarantee an adequate quality of life for citizens; (ii) to ensure the management of natural resources and of the environment in general so as to preserve their operational and productive capacity for the present and future generations; (iii) to raise environmental awareness among the population so as to enable public participation in environmental management; (iv) to guarantee that environmental issues are taken into account in economic planning; (v) to encourage local communities to get involved in planning and decision-making regarding the use of natural resources; (v) to protect ecosystems and key ecological processes; and (vi) to join up regional and global efforts in the search for solutions to environmental problems³.

The PNA covered a range of issues in its agenda. The most significant of these were: a. development of the institutional framework (with a focus on the role of MICOA, which had been created at the time); b. legal framework (envisaging the drafting of an Environment Law and related regulations), c. the integration of environmental issues in socio-economic planning, d. the development of sectoral policies - environmental education and awareness, the training of environmental professionals, environmental research and databases, the role of women, communities and private sector in environmental management, and e. international cooperation⁴.

In 1997, the Framework Law for the Environment Sector, Law No. 20/97 of 1 October, was approved, which established the general basis for the protection of biodiversity, providing the legal basis for the appropriate use and management of the environment and its components. This law was aimed at implementing a sustainable system of development in the country, drawing heavily on the Rio Declaration (1992) and on the National Environment Policy (PNA). The law was progressively revised over the following years in a number of different areas, as we will see ahead.

At the institutional level, steps were taken to operationalise the PNA: establishment of the National Council for Sustainable Development (CONDES)⁵; creation of the Environment Fund (FUNAB); establishment of the Centres for Sustainable Development of Coastal Areas, Urban Areas and Natural Resources (CDS)⁶; and revitalisation of the provincial directorates for the coordination of environmental action.

With regard to the Government’s five-year programmes, there has been a strengthening of the focus on the environment, with emphasis on the shift from the environment as a cross-cutting issue to one of the governance pillars (in the 2015-2019 mandate) and then to one of the three fundamental governance objectives (in the 2020-2024 mandate). Despite this formal impact, the reality has shown that institutional changes, as reflected in the abolition of MICOA and the creation of MITADER and MITA, have probably weakened the government’s environmental agenda at both central and local levels.

2 See Foreword to Resolution No. 4/95 of 9 May, which approved the Government’s Five-Year Programme for 1995–1999.

3 Cf. Section 2.1. of PNA.

4 Part II of the National Environment Policy.

5 The first CONDES Operating Regulations were approved by Decree No. 40/2000, of 17 October, which was subsequently revoked by Decree No. 13/2013, of 11 April, that approved new regulations, more suited and consistent with the current legal and socio-economic framework.

6 Created by and Order of the Council of Ministers, by Decree No. 5/2003, of 18 February, Decree No. 6/2003, of 18 February, and Decree No. 7/2003, of 18 February.

With the exception to the efforts made to strengthening the national network of conservation areas, the other environmental subsectors show tendencies that require special attention, particularly in the areas of environmental quality, biodiversity outside conservation areas, sensitive ecosystems, waste management, environmental education and land use planning. The same can be said of efforts to implement the obligations assumed upon ratification of various international conventions and protocols in the field of the environment.

3. Legal Framework on the Environment

It is necessary to understand how the national legislative framework deals with the environment, by means of defining an environmental legal mechanism comprising various components, or regulatory units, aligned with international commitments and with government policies and programmes approved over the years.

The legal framework for the environment at national level is structured around the following fundamental components or units:

3.1. Environmental Constitution

The Constitution of the Republic of Mozambique, approved in 2004, contains an important collection of environmental-related rules, which are decisive for the development of the legal framework in the field of the environment⁷.

The CRM recognises the right of every citizen to a balanced environment (Article 90, no. 1 of the Constitution) and assigns to the State, together with environmental protection associations, responsibility for adopting environmental protection policies and ensuring the rational use of all natural resources (Article 90, no. 2 of the Constitution).

The Constitution also establishes that the State is responsible for promoting “initiatives to guarantee ecological stability and the conservation and preservation of the environment with a view to improving the quality of life of citizens”. This includes actions to prevent and control pollution and erosion, integrate environmental goals into sectoral policies, promote the integration of environmental concerns into educational policies and programmes, ensure the rational use of natural resources, safeguarding their capacity for regeneration, ecological stability and the rights of future generations, and promoting land use planning that ensures the correct location of activities and balanced socio-economic development (Article 117(1) of the Constitution).

As noted above, two environmental problems were highlighted by the constitutional legislator, namely: pollution and erosion. It left aside serious offences against biodiversity and sensitive ecosystems, illegal burning, illegal exploitation of natural resources, and conduct that contributes to increasing vulnerability to climate change, among others. In the context of constitutional revision, we propose extending the range of environmental problems in order to justify the possibility of criminalising associated behaviours.

As regards access to justice, it is important to point out an article that is significant in terms of access to environmental justice, but which has not yet received the attention it deserves by the regular lawmakers, although a preliminary draft bill has been prepared for this purpose.

⁷ Compared to its predecessor of 1990, this Constitution has reinforced, in both quantitative and qualitative terms, the regime for the protection of the environment as a fundamental legal right.

ARTICLE 81

(Right to public action)

1. All citizens have, whether personally or through associations defending the interests concerned, the right to take legal action in accordance with the law.
2. The right to take legal action includes, in particular:
 - a) the right to claim compensation to which the affected party or parties are entitled;
 - b) the right to promote the prevention, termination or prosecution of offences against public health, consumer rights, environmental protection and cultural heritage;
 - c) the right to defend State and local authority property.

Legal assets of a supra-individual nature (referred to as collective and/or diffuse), such as the environment, require legislation that facilitates, enhances and broadens access to justice, by setting out specific rules in relation to the provisions of proceedings legislation and general procedural law. Nevertheless, in the past, the Legal Reform Unit (UTREL) drafted and submitted to the Assembly of the Republic two versions of the Draft Law on Popular Action, which, however, did not merit consideration by the plenary session of this important legislative body. Consequently, citizens and entities looking to access justice in defence of the environment are conditioned by general law, which is not always consistent with the particular characteristics of many environmental cases, nor with the specific principles of the environmental legislative framework, particularly the principles of prevention and precaution.

There is also a need to confer specific responsibilities, in the environmental area, to local bodies, including decentralised governance bodies and local authorities, in order to reinforce the approach to environmental protection and conservation and to build resilience to climate change at the local level, where the various natural resources are located and extracted.

In our view, the Constitution contains a significant gap. It makes no reference to climate change, despite the great importance of this issue on the national agenda, considering the country's vulnerability to extreme weather events. Take, for example, the provisions of Article 11 of the CRM on the fundamental objectives of the Mozambican State. There is no reference to environmental protection or safeguarding resilience to climate change.

In the event of a revision of the Constitution, it is urgent to consider enshrining some important rights intrinsically related to the right to the environment, but also to the right to life, namely the right to water and basic sanitation and the right to energy, both of which are considered human rights. The same reasoning applies to the range of functions of the State, which could be further expanded to include resilience to climate change and extreme weather events, biodiversity conservation, as well as the supply of basic services such as access to water and sanitation, energy and public transport.

For this purpose, it is urgent to take advantage of any constitutional review initiative undertaken, by indicating concrete and well-founded proposals for strengthening the environmental approach.

3.2 Ratified conventions, protocols and agreements

Mozambique is signatory to a number of international environmental instruments, with particular reference to conventions and protocols which govern a variety of environment-related matters.

	Resolution	International law instruments
1	Resolution No. 20/81, of 30 December	It ratifies the on International Trade in Endangered Species of Wild Fauna and Flora (Washington, 30 April, 1973)
2	Resolution No. 17/82, of 13 November	It ratifies the Convention for the Protection of the World Cultural and Natural Heritage (Paris, 21 November, 1972)
3	Resolution No. 8/93, of 8 December	It ratifies the Vienna Convention for the Protection of the Ozone Layer (concluded in Vienna, Austria, on 22 March 1985), as well as the Montreal Protocol on Substances that Deplete the Ozone Layer (concluded in Montreal, Canada, on 16 September, 1987) and the respective amendments (London – 1990; Copenhagen – 1992)
4	Resolution No. 9/2009, of September	It ratifies the Montreal Amendments of 1997 and the Beijing Amendment of 1999 to the Montreal Protocol on Substances that Deplete the Ozone Layer, of 16 September 1987
5	Resolution No. 1/94, of 24 August	It ratifies the United Nations Convention on Climate Change (Rio de Janeiro, 1992)
6	Resolution No. 2/94, of 24 August	It ratifies the United Nations Convention on Biological Diversity (Rio de Janeiro, 1992)
7	Resolution No. 17/96, of 26 November	It ratifies the Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region (Nairobi, 21 June, 1985)
8	Resolution No. 18/96, of 26 November	It ratifies the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel, Switzerland, 22 March 1989)
9	Resolution No. 19/96, of 26 November	It ratifies the Bamako Convention on the Importation of Hazardous Wastes and the Control of Their Transboundary Movement in Africa (Bamako, Mali, 30 January 1991)
10	Resolution No. 20/96, of 26 November	It ratifies the United Nations Convention to Combat Desertification in Countries Experiencing Drought and/or Desertification (Paris, 17 June 1994)
11	Resolution No. 21/96, of 26 November	It ratifies the United Nations Convention on the Law of the Sea and Agreement relating to the Implementation of Part XI of the same Convention, adopted by the United Nations General Assembly on 10 December, 1982 (Montego Bay, Jamaica) and July 1994, respectively.
12	Resolution No. 11/2003, of 20 December	It ratifies the Cartagena Protocol on Biosafety (Montreal, Canada, 29 January 2000)
13	Resolution No. 5/2003, of 18 February	It approves accession to the International Convention for the Prevention of Pollution from Ships (London, 2 November, 1973) and its 1978 Protocol (MARPOL)
14	Resolution No. 45/2003, of 5 November	Accession to the Convention on Wetlands of International Importance – Especially as Waterfowl Habitat (Ramsar, 2 February, 1971)
15	Resolution No. 10/2004, of 28 July	It ratifies the Kyoto Protocol to the United Nations Convention on Climate Change (Kyoto, 11 December 1997)
16	Resolution No. 56/2004, of 31 December	It ratifies the Stockholm Convention on Persistent Organic Pollutants (POPs) (Stockholm, 23 May 2001)
17	Resolution No. 8/2008, of 14 November	It ratifies the new African Convention on the Conservation of Nature and Natural Resources (Maputo, 11 July 2003)
18	Resolution No. 9/2008, of 19 September	Convention on the Conservation of Migratory Species of Wild Animals (Bona, 23 June 1979), as well as the respective amendments of 1985, 1988, 1991, 1994, 1997, 1999, 2002 and 2005
19	Resolution No. 19/2008, of 16 December	It ratifies the Agreement on the Implementation of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling and Highly Migratory Fish Stocks

20	Resolution No. 38/2008, of 15 October	Approves the accession of the Republic of Mozambique to the Protocol on Privileges and Immunities in the International Seabed Authority, within the framework of the United Nations Convention on the Law of the Sea (Kingston, August 1998)
21	Resolution No. 10/2009 of 29 September	It ratifies the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, concluded in Rotterdam (Netherlands, 10 September, 1998)
22	Resolution No. 3/2014, of 3 June	It ratifies the Protocol for the Protection of the Marine and Coastal Environment of the Western Indian Ocean Region from Land-Based Sources and Activities in Eastern and Southern Africa of the Western Indian Ocean Region (LBSA Protocol) (Nairobi, 1 April 2010)
23	Resolution No. 23/2017, of 29 December	It ratifies the Paris Agreement on Climate Change (Paris, 12 December, 2015)
24	Resolution No. 4/2019 of 19 June	It ratifies the Kigali Amendment to the Montreal Protocol on Substances of Concern related to Global Warming Potential (GWP) due to their high global warming potential (GWP) causing climate change.

In addition to the international instruments listed above, at regional level, the country is a member of the Southern African Development Community (SADC), whose Treaty was signed in August 1992 and ratified by the Assembly of the Republic through Resolution No. 3/93, of 1 June. One of the eight fundamental objectives of the SADC Treaty, according to Article 5(1)(g), is to “achieve the sustainable use of natural resources and the effective protection of the environment”⁸.

Below are the main protocols concluded, ratified and published in the Official Gazette, which are relevant to the protection of the environment of the States Parties.

	Protocolo	Instrument of ratification	Object with relevance to the area of environment
1	Protocol on Transport, Communications and Meteorology (Maseru, Lesotho, 24 August 1996)	Resolution No. 18/98, of 12 de May	Building transport, communications, and meteorological systems that provide efficient, cost-effective, and fully integrated infrastructure and operations that best meet customer needs and foster economic and social development and which are environmentally and economically sustainable.
2	Protocol on Cooperation in the Field of Energy (Maseru, Lesotho, 24 August 1999)	Resolution No. 52/98, of 15 de September	To co-operate and use energy in order to support economic development, relieve poverty and improve the living standards and quality of life throughout the Region; and to guarantee that the development and use of energy does not cause damage to the environment.
3	Protocol on the Mining Sector (Blantyre, Malawi, 8 September, 1997)	Resolution No. 53/98, of 15 de September	To align national and regional policies, strategies, and programmes related to the development and exploitation of mineral resources; collectively develop and comply with internationally recognised standards for health, mining safety, and environmental protection.
4	Revised Protocol on Shared Watercourses in the Region (Windhoek, Namibia, 7 August, 2000)	Resolution No. 31/2000, of 27 de December	To develop a closer cooperation for the sound, sustainable and coordinated protection, management and use of shared watercourses and promote the SADC agenda of economic integration and poverty alleviation. To promote the sustainable, equitable and rational use of shared watercourses, as well as the development and environmentally sound management of shared watercourses in a coordinated and integrated manner.
5	Protocol on Tourism Development (Grand Baie, Mauritius, 14 September, 1998)	Resolution No. 12/2001, of 20 March	To turn tourism into a vehicle for social, economic and sustainable development by taking full advantage of the region’s potential; to optimise the use of resources and increase the region’s competitive advantages over other destinations through joint efforts and cooperation in an environmentally sustainable manner.

⁸ See Article 5(1)(g) of the SADC Treaty.

6	Protocol on Wildlife Conservation and Law Enforcement (Maputo, 18 August, 1999)	Resolution No. 14/2002, of 5 March	To establish within the region, and in accordance with the respective domestic laws of each State Party, common approaches to the conservation and sustainable use of wildlife resources and support the effective enforcement of relevant laws
7	Protocol on Fisheries (Blantyre, Malawi, 14 August, 2001)	Resolution No. 39/2002, of 30 April	To promote the responsible use of the aquatic living resources and ecosystems which are of interest to the States Parties, with a view, inter alia, to ensuring that future generations benefit from these renewable resources..
8	Protocol on Forestry Activities (Luanda, Angola, 3 October, 2002)	Resolution No. 1/2009, of 14 April	To focus on activities related to the development, conservation, sustainable management and use of all types of forests and trees and to the trade of forest products in the region, ensuring effective protection of the environment and safeguarding the interests of both present and future generations.
9	Protocol on Environmental Management for Sustainable Development (Victoria Falls, Zimbabwe, 18 August 2014)	No information	To ensure environmental protection with a view to contributing to human health, well-being and poverty alleviation; promote the sustainable use of natural and cultural resources and the protection of the environment for the benefit of the present and future generations; promote shared management of trans-boundary natural and environmental resources; promote effective and responsible management of climate change.

Among the main challenges currently faced is the extent to which these commitments are being implemented by the Mozambican state. Such implementation includes the adoption of procedures to publicise and disseminate these instruments, raising awareness of their main objectives, content and implications for the country, as well as the mechanisms for implementing, monitoring and evaluating Mozambique's efforts to fulfil its respective obligations.

The challenges to be considered include the following: financial, human and technological limitations, which prevent the creation and maintenance of strong and effective institutions for environmental management; the fragmentation of responsibilities among different government agencies, which hinders the implementation of coherent and comprehensive environmental policies; and the lack of qualified personnel in a wide range of environmental matters, which compromises the ability to implement and monitor international conventions and protocols.

3.3 Environment Law

3.3.1 General aspects of the Environment Law

Law No. 20/97, of 1 October, the Environment Law, was approved following the commitment undertaken by the Government under the National Environment Policy (1995), with the objective of “defining the legal basis for the correct use and management of the environment and its components so as to bring about a system of sustainable development in the country” (Article 2 of the Environment Law).

This Law focused primarily on defining a set of key concepts and principles for environmental management⁹, establishing a basic institutional framework for environmental protection¹⁰, and adopting a general rule prohib-

⁹ See Article 4 of the Environment Law.

¹⁰ See Articles 5 to 8 of the Environment Law.

iting all activities capable of causing environmental degradation beyond the legally defined limits (with particular emphasis on pollution)¹¹. It was also focused on setting out special rules for environmental protection (with a particular focus on protecting biodiversity)¹², on establishing a number of environmental prevention instruments (environmental licensing, environmental impact assessment process and environmental auditing)¹³, and on specifying the system of offences, penalties and monitoring¹⁴.

As a framework law, attention should be paid to the definition of general clauses that are subsequently developed through regulatory action by the Council of Ministers. The first clause concerns the prohibition of activities that may cause any form of environmental degradation¹⁵, in violation of the provisions of the law, as it is understood from the interpretation of Article 9(1) of the Environment Act. Notwithstanding the fact that the heading of the article refers to the prohibition of pollution, the legislator refers not only to various acts of pollution, but also to activities that accelerate erosion, desertification, deforestation and other activities which cause environmental degradation.

Following this, there is a general clause prohibiting pollution outside the legally established limits, including “the production, deposit in the soil and subsoil, and release into the water or atmosphere of any toxic and pollutant substances”, as stated in Article 9, No. 1 of the Environment Law. As technical and legal designation of legally established limits, we have that of environmental quality standards, “such as the acceptable levels of concentration of pollutants present by law for environmental components with a view to adjusting them to a specific purpose” (Arts. 1, No. 18 and 9, No. 1, of the Environment Law).

Equally relevant is the general clause on biodiversity protection, enshrined in the rule prohibiting all activities that adversely affect the conservation, reproduction, quality and quantity of biological resources, especially those that are endangered, under the terms of Article 12, No. 1. The Government shall, in particular, ensure that appropriate measures are taken to maintain and regenerate animal species, restore damaged habitats and create new habitats, with special control over activities or the use of substances that may be harmful to wildlife species and their habitats. It must also ensure the special protection of endangered plant species or botanical specimens, isolated or in groups, which, due to their genetic potential, size, age, rarity, scientific and cultural value, require such protection (Art. 12, No. 2, of the Environment Law).

Finally, it is worth noting the general clause prohibiting the construction of residential or other infrastructure which, due to its size, nature or location, could have a significant negative impact on the environment, especially in coastal zones, areas under threat of erosion or desertification, wetlands, environmental protection areas and other ecologically sensitive regions, according to Article 14, nos. 1 and 2 of the Environment Law. Particular attention goes to the provision in Article 14(3) of this Law, which states that regulations shall be established for the implementation of infrastructure in the above-mentioned areas, as well as for the construction of infrastructure in areas surrounding motorways, railways, dams, ports and airports, among others, so that their operation, their possibility of expansion, as well as the harmony of the landscape are not impaired.

A number of citizens’ rights and duties have been set out, namely the rights to environmental information (Article 19), environmental education (Article 20), access to justice (Article 21), the right to request injunctions (Art. 22), as well as the obligations to report infringements (Art. 23) and to use resources in a responsible manner (Art. 24).

11 See Articles 9 and 10 of the Environment Law.

12 See Article 12 of the Environment Law.

13 See Articles 15 to 18 of the Environment Law.

14 See Articles 27 to 29 of the Environment Act.

15 Environmental degradation is defined as “the adverse alteration of the characteristics of the environment and includes, among other things, pollution, desertification, erosion and deforestation” (Article 1(7) of the Environment Act).

Among other aspects, the legislator has established a threefold liability regime for cases of non-compliance with environmental legislation, through the incorporation of civil liability, administrative liability and criminal liability, under the terms of Articles 26 and 27 of the Environment Law.

3.3.2 Gaps and other critical issues regarding the Environment Law

At the time of completion of this report, the Environment Law had been in existence for just over two and a half decades without ever having been properly publicised in order to make it known and accepted as important to society in general and communities in particular.

Furthermore, it has never been revised, despite the long period of time that has elapsed and the whole range of problems and challenges of magnitude, severity and complexity that the country has been facing in terms of the environment and climate.

Not all environmental problems and environmental components have received due attention in the text of the Environment Law, and there is a need, in the context of legislative review, to include a more comprehensive and appropriate approach to the immense environmental and climate challenges facing the country. Consider, for example, the problem of erosion, which was highlighted in Article 117, No. 2, subparagraph a) of the Constitution, but which is not addressed separately in the Environment Law. The same applies to prohibited hunting and fishing, the destruction of protected ecosystems, illegal mining, the felling of forest resources in contravention of the legal framework, illegal burning, soil degradation, among others. Establishing frameworks for the various problems would serve as a guideline for legislators in sectoral regulation, ensuring greater legislative harmony and comprehensive coverage of environmental issues.

Although the Environment Law was approved following the excitement over Rio de Janeiro conference, at which the United Nations Convention on Climate Change was signed, it does not contain any reference to climate change. In other words, the legislator was omissive with regard to the general and specific obligations of the State parties to such an important international instrument, as well as the intrinsic relationship between climate change/extreme weather events and environmental degradation. The inclusion of a chapter, or at least an article, on the framework for climate change in the Mozambican legal system, would be an important aid in the process of defining legal and administrative measures for adapting to, mitigating and building resilience to climate change.

With regard to participation and transparency, despite the inclusion of the principle of participation, of an article on public participation and the provision of the right to information (see Articles 4, 8 and 19), our opinion is that the Environment Law and its regulations need to be further strengthened, particularly in order to facilitate and maximise citizen participation in decision-making processes and to ensure greater and better transparency in the licensing and conduct of activities susceptible to have an environmental impact. It is worth noting that Mozambique has not ratified the important Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, signed in Aarhus, Denmark, on 25 June, 1998.

A further aspect that should be included in the Law is the obligation for the Government to publish, at regular intervals (to be defined), a report about the state of the environment in Mozambique, which could be presented to the National Assembly at the end of each legislative session, in line with the provisions of Article 25 of Law

No. 19/2007, of 18 July, the Territorial Planning Law, concerning the assessment of the state of territorial planning. There has been only one report about the state of the environment in Mozambique throughout history, prepared by the then MICOA in 2011.

3.3 Environment Law Regulations

3.3.1 Approved regulations

Several matters covered by the Environmental Law have been subject to regulation throughout the government's cycles. In summary, and in chronological order, we present the list of Environmental Law regulations.

	Regulation	Approving Decree	Summary
1	Regulation on the Management of Biomedical Waste	Decree No. 8/2003, of 18 February 2003	It lays down rules for the management of biomedical waste, with a view to safeguarding the health and safety of healthcare workers, auxiliary workers and the general public. The aim is to minimise the impact of such waste on the environment, and it applies to healthcare facilities, research institutions, companies or individuals that produce, handle, transport and dispose of biomedical waste.
2	Regulation on Environmental Quality and Effluent Emission Standards	Decree No. 18/2004, of June, amended by Decree No. 67/2010, of 31 December	It defines the standards of environmental quality for air, water and soil and for effluent emissions, with the aim of controlling and maintaining acceptable levels of pollutant concentration in environmental components.
3	Regulation for the Prevention of Pollution and Protection of the Marine and Coastal Environment	Decree No. 45/2006, of 30 November	It seeks to prevent and limit pollution resulting from illegal discharges made by ships, platforms or on-shore sources, by establishing the legal basis for the protection and conservation of areas within the public maritime, lake and river domain of beaches and fragile ecosystems, including their biodiversity.
4	Regulation on Access to and Benefit-Sharing of Genetic Resources	Decree No. 19/2007, of 9 August	It is intended to regulate: (i) the access to components of genetic resources existing in the national territory, on the continental plateau, and in the exclusive economic zone for the purposes of scientific research, technological development, or biological prospecting; (ii) the access to traditional knowledge associated with genetic resources, relevant to the conservation of biological diversity, the integrity of natural resources, and the use of their components; (iii) the fair and equitable distribution of benefits derived from the exploitation of genetic resources and associated traditional knowledge; (iv) access to technology and its transfer for the conservation and use of biological diversity.

5	Regulation on the Management of Substances that Deplete the Ozone Layer	Decree No. 24/2008, of 1 July	It establishes rules for the import, export, transit, and destruction of substances that deplete the ozone layer and the equipment in which they are contained, aiming to prevent or minimize their negative impacts on the environment. It applies, under the terms of Article 3, to all natural or legal persons, whether national or foreign, involved in the import, export, marketing, use, and destruction of ozone-depleting substances and equipment containing them.
6	Regulation for the Control of Invasive Alien Species	Decree No. 25/2008, of 1 July	It aims to protect vulnerable and threatened species and ecosystems, to prevent the unauthorised introduction and dissemination of alien species and invasive alien species, to manage and control invasive alien species in order to prevent or minimise damage to the environment and biodiversity; the eradication of alien species and invasive alien species from ecosystems and habitats where they may be harmful, and the carrying out of environmental impact studies prior to the introduction of alien species.
7	Regulation on the Ban of Asbestos and its Byproducts	Decree No. 55/2010, of 22 November	This law prohibits the production, use, import, export, and sale of asbestos and its derivatives, with a view to protecting public health and the environment. It is applicable to public or private activities that directly or indirectly influence public health and the environment through the use of asbestos and its by-products.
8	Biosafety Regulation on the Management of Genetically Modified Organisms,	Decree No. 71/2014, of 28 November	<p>This law prohibits the production, use, import, export, and sale of asbestos and its derivatives, with a view to protecting public health and the environment. It is applicable to public or private activities that directly or indirectly influence public health and the environment through the use of asbestos and its by-products.</p> <p>It defines the rules concerning biosafety and the mechanisms for monitoring the authorisation for the import, export, transit, research, release into the environment, handling and use of GMOs and their products resulting from modern biotechnology, thereby contributing to the protection of human health, the environment and, in particular, the conservation of biological diversity. It is applicable to all public and private entities involved in the import, export, transit, research, release into the environment, handling and use of GMOs and their products across the entire national territory.</p>
9	Regulation on Hazardous Waste Management	Decree No. 83/2014, of 31 December	It establishes rules for the production and management of hazardous waste in the national territory, applying to flammable, explosive, corrosive, toxic, infectious or radioactive waste, or to any other waste with characteristics that pose a danger to human life or health, other living beings, or to the quality of the environment.
10	Regulation on the Management of Urban Solid Waste	Decree No. 94/2014, of 31 December	It sets out rules for the management of solid urban waste in the national territory, i.e., waste resulting from domestic and commercial activities in population centres.

11	Regulation on the Management and Control of Plastic Bags	Decree No. 16/2015, of 5 August	It defines rules and procedures for the management and control of plastic bags, as regards their production, import, marketing and use, with a view to reducing negative impacts on human health and the environment in general.
12	Regulation on the Environmental Impact Assessment (EIA)	Process Decree No. 54/2015, of 31 December	It regulates the EIA process as a preventive instrument of environmental management. It involves the identification and preliminary qualitative and quantitative analysis of the beneficial and harmful environmental effects of a proposed activity. It applies to all public or private activities that may, directly or indirectly, influence environmental components, establishing the categorisation of activities in order to determine the type of EIA and the respective exemptions. It defines the powers of the Environmental Impact Assessment Authority, setting out the rules for the instruction of the process, the preliminary assessment to which all activities likely to have an impact on the environment are subject, the factors determining the assessment criteria, the environmental assessment studies, the objectives of the technical committees for environmental impact assessment, the obligations and rights of expert evaluators, the process of public participation and the time frames for EIA processes. It also aims to regulate environmental licensing, environmental consultants and proponents, inspection, fees and the penalty regime.
13	Regulation on the Extended Producers and Importers Responsibility for Packaging	Decree No. 79/2017, of 28 December	It defines the principles and rules on the extended responsibility of producers and importers of both packaging and packaging waste, with a view to ensuring the protection of public health and the environment, in a context of sustainable development.
14	Regulation for the Implementation of Projects Related to the Reduction of Emissions Caused by Deforestation and Forest Degradation, Conservation and Enhancement of Carbon Stocks	Decree No. 23/2018, of 3 May 2018	It sets out principles and rules for the implementation of programmes and projects that contribute to the reduction of emissions resulting from deforestation and forest degradation, conservation and enhancement of forest carbon stocks, and promotion of sustainable forest management. Specifically, it includes the definition of rules for REDD+ Programmes and Projects in the national territory; the promotion of the conservation and restoration of degraded natural ecosystems and the valorisation of their ecosystem and environmental benefits; the definition of rules for the generation, transfer, trading and withdrawal of credits for the reduction of emissions; providing for the monitoring and transparency of information on emissions and removals in REDD+ at national, provincial and district level; and promotion of the adoption of good practices in sustainable forest management.
15	Regulation on the Management of Chemicals and Persistent Organic Pollutants	Decree No. 25/2024, of 26 April	It aims to define rules for the management of chemicals and persistent organic pollutants, concerning the import, export, production, transport, handling and use of chemicals and their mixtures; the adoption of mechanisms for the prevention from pollution, the protection of the environment, human and animal health.

16	Regulation on the Environmental Audit Process	Decree No. 45/2024, of 26 June	It aims to establish principles and standards to guide environmental auditing within the national legal system. It applies to public and private activities in all their phases of implementation, decommissioning, and restoration that may, directly or indirectly, influence environmental components.
17	Regulation on Environmental Inspection Activity	Decree No. 51/2024, of 17 July	Its purpose is to regulate the enforcement of compliance with environmental protection and quality standards at the national level, defining the powers, in this matter, of the Ministry responsible for the environment, regulating supervisory action, principles, guarantees and impediments, and the rights, duties, and prerogatives.

3.3.2 Regulations not yet approved

Despite the aforementioned efforts, there are matters expressly provided for in the Environmental Law that have not yet been regulated. These include environmental insurance (Art. 25), strict liability (Art. 26), and environmental incentives (Art. 31), with implications described below:

- **Environmental Insurance (Art. 25):** The lack of regulation for environmental insurance prevents the implementation of a crucial mechanism for ensuring the repair of environmental damage. Without clear rules on mandatory coverage, scope of coverage, compensation limits, and procedures for activating insurance, victims of environmental incidents are left unprotected, and the costs of environmental recovery often fall on the State or the affected communities themselves. Regulating this article would encourage the internalisation of environmental costs by potentially polluting activities and promote the adoption of preventive measures.
- **Strict Responsibility (Art. 25):** The lack of regulation of strict liability makes it difficult to hold agents responsible for environmental damage, even in the absence of fault or intent. Strict liability is a key principle of environmental law aimed at protecting the environment and preventing risky activities. Its operationalisation, through a specific regulation, would clarify the criteria for imputing liability, the types of environmental damage covered, and the procedures for compensation, strengthening environmental protection and facilitating access to justice for victims.
- **Environmental Incentives (Art. 31):** The lack of regulation of incentives for environmental protection prevents the establishment of a framework which would actively promote the adoption of sustainable practices by companies, individuals, and communities. Tax, credit, technical, or other incentives could stimulate investment in clean technologies, biodiversity conservation, efficient use of natural resources, and the implementation of measures to adapt to climate change. The regulation of this article is essential to align economic interests with the objectives of environmental sustainability.

On the other hand, in the field of biodiversity protection (Article 12), the regulatory powers granted to the Government have not yet been fully exercised, and there is a need to consider aspects such as vulnerable species, subspecies and ecosystems¹⁶, biodiversity in urban areas and under urban pressure, as well as, in general, biodiversity located outside conservation areas.

¹⁶ Take, for example, the latest case of the rush for heavy sands, located in the dunes and beaches of the Mozambique coast, where some of the country's most important biodiversity spots are found.

As a concrete example, we can look at what's happening with urbanisation, where flora, fauna, and ecosystems aren't taken into account, leading to rapid environmental degradation with serious present and future implications. The allocation and occupation of spaces for a wide variety of purposes is not being accompanied by the necessary protection of existing ecological resources, a scenario that is particularly serious in ecologically sensitive areas such as coastal forests, wetlands, hillsides, lakes and lagoons, riverbanks, etc.

It should be noted that the above-mentioned constraint is also related to the fact that there is practically no environmental approach in land legislation, despite Environmental Law and Land Law (Law No. 19/97 of 1 October) having been approved on the same day (1 October, 1997). Neither the Land Law nor the Land Law Regulations (approved by Decree No. 66/98, of 8 December, amended by Decrees No. 1/2003, of 18 February, No. 50/2007, of 18 October, and No. 43/2010, of 20 October), and the Urban Land Regulation (approved by Decree No. 60/2006, of 26 December) establish any obligation on the part of the DUAT holder or land occupant in relation to the environment, which makes them more powerful than landowners in countries which recognise private land ownership.

As far as waste management is concerned, there is a critical gap which lies in the absence of specific regulations for electronic waste, which covers equipment such as mobile phones, batteries, computers, televisions and refrigerators. The inadequate disposal of these items represents a serious and growing environmental and public health problem in the country, which demands immediate and effective regulatory attention.

The major impacts of improper disposal of electronic waste have serious consequences, mostly related to environmental contamination and impacts on human health, namely:

- **Soil and Water Contamination:** a wide range of electronic components contain highly toxic substances, including heavy metals such as lead, mercury, and cadmium, as well as persistent organic substances such as polychlorinated biphenyls (PCBs) and brominated flame retardants. When improperly disposed of in unprepared landfills or abandoned in the environment, these materials leach into soil and groundwater, contaminating ecosystems and drinking water sources.
- **Impacts on Human Health:** exposure to toxic substances contained in electronic waste can occur in a number of ways, such as through the ingestion of contaminated water or food, the inhalation of dust and fumes released during informal recycling (often carried out without adequate protection), and direct contact with the materials. This exposure has been associated with a number of health problems, including respiratory diseases, neurological disorders, kidney damage, developmental problems, and an increased risk of cancer.
- Apart from environmental and health risks, improper disposal of electronics represents a significant loss of valuable resources. Many electronic components contain precious metals such as gold, silver, platinum, and copper that can be recovered through recycling processes, contributing to the circular economy and the conservation of natural resources.

In this regard, the approval of a specific regulation for the management of electronic waste would consider aspects such as:

- Extended producer responsibility (EPR), holding manufacturers and importers of electronic products responsible for the management of their products' life cycle, including the collection, treatment and recycling of waste;
- Institutionalisation of efficient and accessible selective collection systems through specific drop-off points,

collection campaigns and other initiatives;

- Definition of standards for treatment and recycling, thereby ensuring the safe recovery of valuable materials and the appropriate decontamination of hazardous components;
- Prohibition of improper disposal in landfills, controlled waste disposal sites, rubbish dumps or the environment, accompanied by enforcement mechanisms and penalties for non-compliance;
- Building awareness and educating people through public information and education campaigns about the dangers of improper disposal of electronic waste and the importance of selective collection and recycling;
- Providing incentives for the establishment and development of a formal electronic waste recycling sector, creating green jobs and promoting the circular economy.

With regard to the implementation of the above-mentioned regulations, there are enormous challenges that undermine their effectiveness, among them the limited resources available for enforcement, technical and human capacity, and the existence of monitoring and evaluation systems. Many examples could be given of poor or non-existent implementation of the regulations and the respective parent law, but we will focus on two cases related to pollution prevention and control:

- The Regulation on the Management and Control of Plastic Bags (2015) – approved at the time of great enthusiasm for government efforts to reduce plastic pollution, which prohibited the following actions: (i) the production, import, retail or wholesale of plastic bags less than 30 micrometres thick (with the exception of plastic bags used for weighing food products and those specifically used for packaging urban solid waste (USW)); (ii) the free distribution of plastic bags in all commercial establishments; and (iii) the sale or distribution of plastic bags containing more than 40% recycled material in establishments selling food products (Art. 4 of the Regulation). After some success in the first few months following its entry into force, in the following years reality showed that national plastic bags remain abundant in the environment. They are offered in the vast majority of informal establishments and in part of the formal sector; recycled bags continue to be used to package food and there are also indications of the existence of plastic bags on the market with a thickness of less than 30 micrometres. In turn, it was still a rather minimalist option when compared to the total ban measures adopted by several African countries, with noteworthy positive impacts.
- Regulation on Extended Producer and Importer Responsibility for Packaging (2017), which attributed, in whole or in part, physically and/or financially, to the producer and importer of packaging and packaging waste the responsibility for the impact on public health and the environment [See Article 4(b) of the Regulation]. In this regard, producers and importers are jointly responsible for the management of packaging and packaging waste, in line with the provisions of this Regulation and other applicable legislation, including the payment of fees and the return and recovery of packaging waste, either directly or through organisations that have been set up to ensure the collection of recovered materials (Article 7 of the Regulation). There are three systems of producer and importer responsibility for packaging that can be implemented in combination, namely: (i) internal management system (direct and indirect); (ii) environmental tax system on packaging; and (iii) packaging standardisation system (Art. 9 of the Regulation). However, about seven years later, this Regulation is still not being implemented, leaving the burden of packaging waste management to municipalities and districts, which face chronic financial difficulties. Recently, Ministerial Decree No. 26/2025 of 10 March approved the regime for the Environmental Tax on Packaging.

The two regulations above represent relatively tentative steps towards addressing the issue of waste management in general and the need to make efforts to drastically reduce the impact of plastic pollution. For example, extended producer responsibility only covers packaging and packaging waste, leaving out a whole range of waste produced or imported that requires a similar approach, particularly toxic or hazardous waste (tyres, batteries, light bulbs, etc.), biomedical waste (with a special focus on expired medicines) and electronic waste (equipment such as computers, printers and their components). Regarding plastic, in particular, the Regulation in question only considered plastic shopping bags, leaving a general gap when it comes to other single-use plastics (PET bottles, sweet and snack packaging, disposable plates, cups and cutlery, takeaway packaging, straws, etc.).

One of the crucial aspects to consider is the need to disseminate the regulatory framework on the environment at the local level, more specifically in municipalities and districts, including the training of leaders, technicians and other actors involved in the environmental field, as one of the conditions for the effective and full implementation of the various instruments mentioned above. This aspect is also related to the model of state organisation and the barriers or difficulties in developing decentralisation models that are appropriate for the pursuit of the objectives set out, among other instruments, in Article 11 of the CRM.

3.4 Sectoral environmental legislation

The Constitution stipulates, under the terms of Article 117(2)(b), that it is the responsibility of the State to integrate environmental objectives into sectoral policies with a view to “guaranteeing the right to the environment within the framework of sustainable development”.

Under Article 32(1) of the Environment Law, “existing legislation governing the management of environmental components must be adjusted to the provisions of this Law”.

It is therefore incumbent on each sector of activity to consider the environment when designing policies, legislation and institutional mandates, through the definition of specific principles and standards of sound environmental management.

3.4.1 Examples of sectors of activity with environmental requirements

In this field, some sectors of activity have been more active than others. Examples include the mining, oil, sea and fisheries, and tourism sectors.

It should be noted that environmental standards can be incorporated into sectoral legislation through articles, sections or chapters of laws and regulations that are approved (see Law No. 4/2004 of 17 June, Tourism Law, and Law No. 20/2019 of 8 November, Maritime Law), or even in the drawing up of a specific instrument setting out standards of good environmental management for a particular sector (such as the Environmental Regulations for Mining Activities, approved by Decree No. 26/2004 of 20 August, and the Environmental Regulation for Petroleum Operations, approved by Decree No. 56/2010, of 22 November).

The specific case of the mining sector

Despite the existence of a legal framework for the mining sector in Mozambique, including the Mining Law and its regulations establishing environmental standards, mining activity continues to present significant environmental and social challenges that require more effective and integrated responses. An analysis of the issues presented reveals critical areas in which the existing legislation and its implementation are still insufficient to ensure sustainability and social justice.

The complexity of the environmental and social challenges in the mining sector in Mozambique is partly due to the intrinsic link between them. For example, environmental degradation is not only an ecological issue, but also a social one, that directly affects the livelihoods of local communities that depend on natural resources for agriculture, fishing, and access to clean water. Mercury contamination of water, which results from poor mining practices, not only destroys aquatic ecosystems but also compromises human health, causing illness and food insecurity. Equally, precarious working conditions, with exposure to toxic substances and accident risks, not only violate workers' fundamental human rights, but can also have long-term environmental impacts, such as soil and water contamination in the event of industrial accidents. Therefore, any approach to solving these challenges must recognise this interdependence and seek integrated solutions that simultaneously address the environmental and social dimensions of mining.

The issue of formalising artisanal mining illustrates this need for an integrated approach. The lack of regulation and specific zones for this activity leads to destructive environmental practices, such as uncontrolled deforestation and the indiscriminate use of mercury, as well as exposing miners to dangerous working conditions and exploitation. Not only can formalisation, through the creation of designated zones, simplified licensing processes and the provision of technical assistance, improve environmental practices and working conditions, but it can also integrate these miners into the formal economy, generating broader social and economic benefits. However, this formalisation must be combined with ongoing environmental and social monitoring and a guarantee that local communities are involved in the process and benefit from the activity, thus avoiding the creation of new forms of injustice or environmental degradation.

Overcoming the challenges in the mining sector in Mozambique requires a shift in paradigm, moving from a purely extractivist vision to a sustainable mineral development approach, which implies internalising the environmental and social costs of mining, ensuring the participation and benefit of local communities, promoting transparency in the management of resources and revenues, and investing in long-term economic alternatives for mineral-rich regions. Although existing legislation represents an important starting point, it needs to be complemented by more specific regulations and by more rigorous and coordinated implementation and enforcement among different government agencies. Furthermore, it is essential to promote multisectoral dialogue involving the government, businesses, civil society and local communities in order to develop solutions that are not only economically viable, but also environmentally sustainable and socially just, ensuring that Mozambique's mineral wealth benefits the nation as a whole without compromising the future of coming generations.

3.4.2 Examples of sectors of activity without environmental requirements

First of all, let us look at the agriculture sector, in which there is an urgent need for a framework law aimed at sustainability, as well as appropriate regulations, which represent a significant obstacle to the adoption of good environmental management practices. With a view to integrating environmental and climate imperatives into this crucial sector, the priority for legislation should be the adoption of a Framework Law on Sustainable Agriculture, which sets out principles for agricultural production that respects environmental limits and contributes to climate resilience, defining:

- Principles and guidelines for sustainable agriculture: the law should establish principles such as soil and water conservation, biodiversity protection, efficient use of natural resources and reduction of greenhouse gas emissions. It should guide sectoral policies and regulations as well as farmers' practices at all levels;
- Sustainable conservation obligations for farmers: It is essential that the law establishes clear obligations for farmers, both subsistence and industrial. This includes prohibiting unsustainable deforestation for agricultural expansion, implementing soil conservation practices (such as direct planting and vegetation cover), efficient water use (through efficient irrigation systems and rainwater harvesting) and protecting biodiversity in agricultural and adjacent areas;
- Improved regulation of pesticide use: given the growing concern about the impacts of pesticides on health and the environment, it is urgent to strengthen the regulatory framework on the use, import, marketing and storage of these substances, with a greater focus on protecting human health and ecosystems, promoting safer and more sustainable alternatives;
- Incentives for sustainable practices: with a view to encouraging the adoption of sustainable agricultural practices, the law should consider the creation of various incentives, such as specialised technical assistance, easier access to credit with differentiated rates, subsidies for the acquisition of green equipment and technologies, and support for the marketing of agro-ecological products.
- Protection of sensitive areas: the law should establish protective measures for sensitive areas, such as riverbanks, wetlands and conservation areas, restricting or prohibiting agricultural activities that could cause erosion, silting, water pollution and biodiversity loss. There should be compensation for farmers affected by these restrictions;
- Adapting to climate change: the law should include ways to make the farming sector more resilient to climate change, like promoting crops that can resist drought and flooding, developing early warning systems, and sharing ways to manage climate risks.

Secondly, we have the construction sector. In this sector, the absence of a code of principles and standards promoting good environmental management represents a significant gap. The urgent adoption of a Sustainable Construction Code is essential to guide the sector towards more responsible practices and to mitigate its environmental impact:

- Principles of rational use of materials: the code should give priority to the use of low-carbon building materials from sustainable sources with potential for recycling and reuse. It should encourage the circular economy by promoting the reuse of building and demolition materials;
- Recyclical economy in water use: the code should establish standards for efficient water usage in construction activities and buildings. This includes the mandatory implementation of rainwater harvesting and reuse systems, the use of technologies that reduce drinking water consumption (such as efficient sanitary fittings) and the recirculation of water in construction processes;
- Efficiency and renewable energy: the code should set minimum energy efficiency standards for new buildings and encourage the incorporation of renewable energy, such as solar, into projects. This will contribute to reducing conventional energy consumption and greenhouse gas emissions associated with the sector;
- Respect for ecological areas and compensation for biodiversity loss: the code should include mandatory

provisions for incorporating green spaces into construction projects in both urban and rural areas. It should also establish mechanisms to compensate for biodiversity loss during construction, such as replanting native species in equivalent or larger areas;

- Management of construction and demolition waste: the code should define clear standards for the proper management of waste generated by construction and demolition activities, giving priority to separation at source, reuse, recycling and environmentally safe final disposal;
- Assessment of the life cycle of buildings: in the long term, the code may evolve to incorporate the assessment of the life cycle of buildings, considering the environmental impacts from the extraction of materials to their demolition, encouraging design and material choices that minimise these impacts.

Basically, there's a need to work on harmonising the national legislative framework on environmental matters, ensuring that each sector of activity complies with the provisions of the Constitution of the Republic of Mozambique and the Environment Law, following principles and standards of good environmental management.

3.5 Legal treatment of climate issues

Despite Mozambique's remarkable efforts to adhere to and ratify important international climate-related instruments, such as the United Nations Framework Convention on Climate Change, the Kyoto Protocol, and the Paris Agreement, as well as the approval of various legislation addressing different issues on the climate agenda (such as the Disaster Risk Management and Reduction Law, the Forestry Law, etc.), there is a clear need for strategic and urgent investment in the design of a comprehensive, systematic, and truly effective political and legal framework. This framework must be capable of addressing, in an integrated manner, the complexity and cross-cutting nature of the challenges posed by climate change.

Although existing instruments represent important steps forward, a more in-depth analysis reveals significant gaps and areas where legislation needs to be strengthened and supplemented:

- Lack of a framework law on climate change, i.e., a law dedicated exclusively to climate change. Such legislation would be crucial to establish principles, guidelines, emission reduction targets, adaptation mechanisms, responsibilities of different sectors, and climate finance instruments in a clear and integrated manner;
- The country still faces insufficient sectoral integration, in which the climate agenda needs to be more robustly integrated into all sectoral policies and legislation, such as agriculture, energy, infrastructure, health, and territorial planning. It is essential to ensure consistency between development objectives and climate action imperatives.
- There are limited adaptation mechanisms. Although Mozambique is highly vulnerable to the impacts of climate change, the legal framework to support and implement adaptation measures in different sectors and communities is still incipient. There is an urgent need to strengthen legislation to promote resilience and adaptation based on ecosystems and communities. This includes, for example, resilient infrastructure, including standards that encourage construction adapted to extreme weather events and climate resettlement for vulnerable communities; the need to define training programmes, including educational initia-

tives, to prepare communities and managers to face climate challenges.

- Need for a better legal definition of the climate finance framework and incentive mechanisms for a better mobilisation and management of financial resources for climate action, both nationally and internationally, as well as for the creation of incentive mechanisms to encourage the adoption of low-carbon practices and investment in clean technologies.
- As regards public participation and access to information, the legislation should ensure the informed participation of civil society, local communities and the private sector in the formulation and implementation of climate policies. Transparent access to information on climate change and government actions is essential.
- Need to establish clear mechanisms for holding parties accountable for non-compliance with climate-related targets and obligations, as well as the strengthening of instruments for monitoring and enforcing the implementation of climate policies.
- Finally, the legal framework must incorporate principles of climate justice, recognising differentiated vulnerabilities and ensuring that climate actions do not exacerbate existing inequalities.

3.6 Municipal environmental legislation

In accordance with Article 286 of the Constitution, local authorities are public legal entities endowed with their own representative bodies that aim to pursue the interests of their respective populations, without prejudice to national interests and State participation. Law No. 12/2023, of 25 August, approved the legal framework for the establishment of local authorities, while the respective Regulations were approved by Decree No. 11/2024, of 3 April.

Through Article 15(1), the Law recognises that local authorities have a set of functions that reflect the specific, common and particular interests of their respective populations, namely “the environment, basic sanitation and quality of life”.

According to Article 24, “Local authorities are granted their own regulatory powers within the limits of the Constitution, laws and other regulations”. This regulatory power allows municipalities to approve, through municipal assembly deliberation, municipal policies on the environment and climate that are appropriate to the specific problems and challenges that characterise their respective constituencies.

Municipal regulations are infra-legal instruments, i.e., hierarchically inferior to laws, which aim to detail and complement legal provisions, adapting them to the needs and specificities of each municipality. They cover several areas, with a focus on the environment (solid waste management, protection of ecological areas, control of noise pollution, sustainable use of natural resources, etc.) and climate (measures to adapt to climate change, incentives for energy efficiency, promotion of renewable energy, etc.).

Municipal regulations are important elements in the design of Mozambique’s legal system for the following key reasons:

- i. Local solutions: they enable municipalities to create specific rules for their territories, taking into ac-

count local environmental and climate problems and challenges;

- ii. More effective actions: by adapting rules to local realities, municipal regulations have the potential to make environmental protection and climate change mitigation actions more effective;
- iii. Community participation: the drafting of municipal regulations can involve the participation of local communities, thereby ensuring that the rules reflect the needs and expectations of the population;
- iv. Enforcement and application: municipal regulations define the rules and penalties for non-compliance with environmental and climate standards, enabling municipalities to monitor and enforce the laws.

However, there is a structural weakness at the municipal level, which can be reflected in the fact that there are still no municipal policies for environmental protection and climate resilience, with the exception of urban solid waste management. To help local authorities use this important tool, it is urgent to build up technical and institutional capacity by investing in staff training, improving infrastructure and equipment, promoting intersectoral coordination and the exchange of experiences between municipalities. To do this, it is important to mobilise financial resources by submitting proposals to national and international institutions and through partnerships with companies and civil society organisations. Better understanding of environmental problems is needed, through technical studies, collection of environmental data and information, and promotion of debates and discussion forums with experts and representatives of civil society. It is also important to promote inter-institutional coordination by creating and developing mechanisms for communication and collaboration between the different actors involved in environmental management.

It is worth noting that not all problems should be dependent on national legislation and, consequently, on the intervention of national entities with control and supervision functions, since most environmental offences can be dealt with in the field of administrative responsibility, with the involvement of the relevant municipal bodies, with a particular reference to the role of the Municipal Police.

3.7 Biodiversity Conservation Act

In the Law on Biodiversity Conservation, we found an important set of legal types of crime, which resulted fundamentally from the revision carried out in 2017 by means of Law No. 5/2017, of 11 May, which significantly aggravated the regime of offences against biodiversity. This law covers the crime of prohibited weapons, as defined in Article 61 of the Biodiversity Conservation Law, which provides for imprisonment of 12 to 16 years and a corresponding fine, as well as the crimes defined in Article 62 of the same law, which prescribe imprisonment of 8 to 12 years and a corresponding fine for individuals committing any of the acts described below.

Type of Crime	Penalty
Killing, without a licence, any animal or plant belonging to protected or prohibited species, including those listed in Annexes I and II of CITES.	Sentence of imprisonment for a term of 12 to 16 years and a corresponding fine
Leading, directing, promoting, instigating, creating or financing; joining, supporting, collaborating directly or indirectly with a group, organisation or association of two or more persons who, acting in conspiracy, jointly or separately, commit the crime of killing or destroying protected or prohibited species of fauna and flora, including species listed in Annexes I and II of CITES, or illegally exploiting mineral resources in conservation areas and buffer zones.	
Without legal permission, extract forest and wildlife resources, sell, distribute, purchase, transfer, receive, provide to another person, transport, import, export, transit or illegally detain animals, wildlife products or products prepared from protected or prohibited species, including those listed in Annexes I and II of CITES.	
Hunting during months in which hunting is prohibited by law, or in a manner prohibited under the same laws during months in which it is not prohibited.	Sentence of imprisonment for a term of 8 to 12 years and a corresponding fine
With no legal permission, converting, transforming, or changing the original character of organic parts of any legally protected animal species or tree, with the aim of concealing or disguising their illegal origin, passage, transport, possession, import, export, or helping the person involved in environmental offences to escape the authorities and evade their responsibilities.	
Poisoning or placing any lethal or harmful substance in the environment, in food or water in rivers, lakes, ponds or any place where animals may drink.	
Setting fire and thereby destroying, in whole or in part, forests, woods or trees within conservation areas and/or buffer zones.	
Use fishing methods prohibited by law, particularly the use of explosives, toxic or poisonous substances or equivalents, or by means of trawl nets or traps narrower than those limited by the public authority, or otherwise fishing in any other manner prohibited by the same regulations or rules, or catching protected species.	

Note for Articles 55 (aggravating circumstances), 56 (mitigating circumstances), 57 (recidivism), 58 (accumulation of offenses), 59 (agents of crimes and joint liability), 59 A (attempt and frustration), 60 (additional penalties), 63A (Searches and seizures) and 63B (Public Prosecutor’s Office).

In terms of judicial actions, wildlife crimes account for the highest number of cases processed, mainly as a result of efforts to train judges, prosecutors and SERNIC agents, including the production of handbooks to support implementation, with the cooperation of international partners, notably USAID, WWF and IUCN.

3.8 Sea Law

Law No. 20/2019, of 8 November¹⁷, the Sea Law, includes a chapter on Crimes and Offences, most of which are environmentally relevant.

Take a look at Article 93, which defines maritime crimes, without prejudice to specific legislation, as those outlined in the Penal Code and the Code of Conduct for the Merchant Navy, including the following: [we will only consider crimes of an environmental nature, as outlined in points a) to i) of No. 1 of Article 93 of the Sea Law]:

¹⁷ It revoked Law No. 4/96, of January 4 (first Sea Law).

Type of Crime	Penalty
Polluting national maritime space, or in any way degrading its qualities and the marine environment, by any means whatsoever without complying with the legal and regulatory provisions or obligations imposed by the competent authority, as well as MARPOL.	Sentence of imprisonment for a term of 2 to 8 years and a corresponding fine
Destroying, without proper authorisation or in violation of the licence, fauna, flora, mangroves, corals and other protected or prohibited marine, lake or river species, as well as causing erosion or alteration of water bodies.	Sentence of imprisonment for a term of 8 to 12 years and a corresponding fine
Processing, packaging, importing, exporting, marketing, supplying, transporting, keeping, storing or abandoning protected or prohibited marine species without authorisation, unless it cannot be proven that the author of the capture and killing of the said species is punishable	Sentence of imprisonment for up to 2 years and a corresponding fine
Fishing during closed seasons or seasonal fishing bans.	Sentence of imprisonment for a term of 2 to 8 years and a corresponding fine
Fishing with trawl nets, or nets with a mesh size smaller than that limited by the public authority, or fishing by any other means prohibited by the same regulations or rules	
Illegal fishing by foreigners	Sentence of imprisonment for a term of 8 to 12 years and a corresponding fine
Throwing poisonous and toxic plants or other poisonous or electrifying materials into the sea, river or lagoon, at any time of the year, for the purpose of numbing or killing living resources.	Sentence of imprisonment for a term of 2 to 8 years and a corresponding fine
Spreading diseases, pests or other harmful species that may affect or cause damage to the marine environment and its ecosystem.	
Introducing exotic plants and animals by sea without authorisation or in violation of current regulations.	

Under the terms of No. 2 of Article 93 of the Sea Law, these crimes are subject to the jurisdiction of maritime courts. See Law No. 10/2022, of 7 July, Law on Maritime Courts, which aims to establish the legal regime for the organisation, composition, functioning and powers of maritime courts, as sovereign bodies with specialised jurisdiction to administer justice in disputes relating to maritime, river and lake jurisdiction, and to hear maritime, river and lake offences that settle disputes related to maritime, river and lake jurisdiction in civil, criminal and commercial matters, as well as maritime, river and lake offences and other matters of a maritime, river and lake nature that are not assigned by Law to another jurisdiction.

Article 94 of the Sea Law (Prevention of Crimes) provides that it is the responsibility of the Government “to ensure, through the competent maritime authority or whoever the Government delegates, the protection of floating naval constructions, whether navigable or not, or any infrastructure installed in the national maritime space, in order to prevent the commission of maritime crimes provided for in this law”.

3.9 Mining Act

Law No. 20/2014, of 18 August, the Mining Law, establishes the general principles governing the exercise of rights and duties related to the use and exploitation of mineral resources (Art. 2, No. 1 of the Mining Law).

With regard to accountability, the legislator stipulates, as a general rule, the prohibition of “the exercise of mining activity without a mining title or sufficient authorization”, subject to “a fine, seizure of the extracted

product or confiscation of the equipment and means used, depending on the seriousness of the offence, in accordance with the Penal Code” (see Art. 78, Nos. 1 and 2 of the Mining Law).

This Mining Law also sets out types of crimes that are relevant to environmental legal protection, insofar as their commission normally involves damage to the environment as a fundamental legal asset.

First of all let us look at the crime of illegal exploration and extraction of minerals, typified in Article 79 of the Mining Law, which provides for imprisonment in the case of prospecting and exploration, possession and transport of mineral samples without the proper authorisation. It is punishable by 2 to 8 years’ imprisonment in the case of extraction, treatment, processing and marketing of mineral products without proper authorisation, and 8 to 12 years’ imprisonment in the case of extraction, treatment, processing and marketing of any radioactive mineral without authorisation, under the terms of the Penal Code.

Then, under Article 80 of this Law, we find the legal definition of the crime of trafficking in mineral products, which focuses on penalising the sale, donation in payment or any form of transaction, and the withdrawal from national territory without proper authorisation of mineral products, under penalty of imprisonment for a term of 8 to 12 years.

3.10 Forestry Law

Law No. 17/2023, of 29 December¹⁸, the new Forestry Law, establishes the principles, objectives and rules governing the creation, protection, conservation, access, use, enhancement and supervision of national forest heritage for the ecological, social, cultural and economic benefit of present and future generations (Article 2 of the Forestry Law). The objectives of the new Law include ensuring the conservation, creation and management of forest heritage, with a view to improving the country’s resilience to climate change and ensuring the sustainable use of forest heritage [Art. 4(a) and (b) of the Forestry Law].

As we shall see, with the approval of the new Law, a significant reinforcement of the accountability approach has taken place, through the penalisation of a set of offences previously dealt with only at the level of administrative liability. This was motivated by the worsening problem of deforestation and environmental degradation in the country, with emphasis on the illegal exploitation and export of forest resources.

The new Law established several types of crimes against forests, including the crime of illegal exploitation and commercialisation of forest resources, prescribed and punished under the terms of No. 1 of Article 77, in accordance to which “anyone who cuts, extracts, fells, transports, acquires, stores, markets and displays timber, charcoal and other forest resources without a licence or in breach of the established conditions shall be punished with imprisonment of 1 to 5 years and a corresponding fine”; and “unless proven otherwise, it shall be presumed that forest resources have been extracted or felled by the person transporting them or in possession of them”.

Next, consider the crime of illegal export of forest products, provided for and punished under the terms of No. 1 of Article 78 of the Forestry Law, which stipulates a prison sentence of 1 to 5 years and a corresponding fine for anyone who exports forest products illegally.

Finally, this Law also lays out the crime of disobedience in Article 79, which applies to anyone who fails to

¹⁸ It revoked Law No. 10/99, of 7 July, the Forestry and Wildlife Law.

obey the legitimate orders of a forest inspector, sworn inspector, or other competent public authority, with the offender incurring the punishment set out in the current Criminal Law.

4. Environmental governance

4.1 Central governance

4.1.1 Central body superintending the environment

Since the holding of the first multiparty elections (1994), the environmental institutional framework has gained momentum with the creation of a Ministry in charge of the environment. It is important to note that, before the creation of a specialised body at ministerial level, responsibilities had been assigned throughout Mozambique's history to different entities below ministerial level.

- I. Ministry for the Coordination of Environmental Action (MICOA) – MICOA, created by Presidential Decree No. 2/94 of 21 December, underwent four consecutive terms (1994–1999; 2000–2004; 2005–2009; 2010–2014). The Ministry was responsible for environmental management, environmental education, environmental licensing and land use planning¹⁹.
- II. Ministry of Land, Environment and Rural Development (MITADER) – Created by Presidential Decree No. 1/2015 of 16 January²⁰. MITADER only served one term (2015–2019). In general, it took on responsibilities in the areas of rural development, biodiversity conservation, and land and forest administration and management²¹.
- III. Ministry of Land and Environment (MiTA) – Created by Presidential Decree No. 1/2020, of 17 January²², it is a central body of the government which, pursuant to its principles, objectives and tasks, ensures the implementation of policies in the areas of environmental management, climate change and conservation areas. When this text was completed, MiTA was in the final months of its term (2020–2024). It has retained the same functions as MITADER, with the exception of rural development, which has been transferred to the Ministry responsible for agriculture²³. Within the organisational structure of MiTA, special mention should be made to the National Directorate for Climate Change, which is an important new initiative, and demonstrates a strengthening of the institutional approach to climate change in the country. A more in-depth analysis should be carried out in relation to the real capacity and effectiveness of this state body to fulfil the duties and responsibilities conferred upon it in view of the numerous environmental and climate challenges, as well as the commitments made internationally.
- IV. Ministry of Agriculture, Environment and Fisheries (MAAP) – Created by Presidential Decree No. 1/2025 of 16 January, resulted from the abolition of the Ministries of Agriculture and Rural Development, of Land and Environment, and Sea, Inland Waters and Fisheries, and creation of the Ministry of Agriculture, Environment and Fisheries. The organisational structure of this new ministry is currently

19 See: Presidential Decree No. 6/95, of November 10 – which defines the objectives and functions of MICOA; Resolution No. 16/2009, of August 5 – that approves the Organic Statute of MICOA; Ministerial Diploma No. 28/2007, of April 18 – it approves the Internal Regulations of MICOA.

20 Which also abolished MICOA.

21 See Presidential Decree No. 13/2015, of March 16, which defines the duties and powers of MITADER, as well as Resolution No. 6/2015, of June 26, which approves the Organic Statute of MITADER.

22 This Presidential Decree extinguished MITADER.

23 See: Resolution No. 10/2020, of May 6, which approves the Organic Statute of the Ministry of Land and Environment, as well as Ministerial Decree No. 44/2020, of August 18, which approves the Internal Regulations of the Ministry of Land and Environment.

being developed, and it is expected that it will pay particular attention to the environment, considering that this sub-sector requires autonomous treatment, with the risk of prioritising the agriculture and fisheries sub-sectors needing to be mitigated.

One of the most important aspects to consider regarding the reform of the environment sector is the design of the most appropriate institutional structure to meet the government's environmental agenda. In this regard, and in line with what is already happening in many sectors of activity²⁴, we believe that priority should be given to creating a kind of national environmental agency, under indirect state administration, or, alternatively, strengthening the role of the National Agency for Environmental Quality Control – AQUA (including a possible change of name, as is the practice in the country), created by Decree No. 80/2010, of 31 December, and whose mandate was revised by Decree No. 78/2022, of 30 December. Currently, AQUA only performs functions in the development of research on environmental contamination or pollution levels and ensures the interpretation of data about major environmental components, within the scope of the sustainable development of natural, terrestrial and marine-coastal resources, in the implementation and adoption of measures aimed at improving research, monitoring, auditing and environmental quality control capabilities, and in environmental enforcement.

It is necessary to assign important executive functions to the Agency in the areas of environmental management, environmental licensing, and environmental education and promotion, in order to take such responsibilities away from bodies such as national directorates. AQUA should assume fundamental political and programmatic functions in the area of environment. This option should be combined with the creation and strengthening of a financial autonomy framework, to be considered in the review of the institutional structure and in the expected role of the FNDS, now integrated into the same sector as the environment.

4.1.2 National Council for Sustainable Development

The National Council for Sustainable Development (CONDES) was created under the Environment Law with the objective of ensuring effective and proper coordination and integration of environmental management principles and activities in the country's development process, operating as an advisory body to the Council of Ministers and a forum for gathering public opinion on environmental issues.

The first CONDES Operating Regulations were approved by Decree No. 40/2000 of 17 October, and then subsequently replaced by new Regulations approved by Decree No. 13/2013 of 11 April, taking into account, in accordance with the preamble, developments in the legal and socio-economic framework.

Under the terms of Article 2 of the Operating Regulations, CONDES has the following functions:

- i. To ensure the effective and appropriate coordination and integration of environmental management principles and activities in the country's sustainable development process;
- ii. To pronounce on sectoral policies related to natural resource management;
- iii. To issue opinions on proposals for legislation complementary to the Environment Law, including on

²⁴ See the cases of the National Sea Institute (INAMAR), the National Fisheries Administration (ADNAP), the National Mining Institute (INAMI), the National Petroleum Institute (INP), the National Road Transport Institute (INATRO), the National Communications Institute of Mozambique (INCM), the Mozambique National Institute of Tourism (INATUR), the National Institute of Cultural and Creative Industries (INICC), the Mozambique Agency for the Promotion of Investment and Exports (APIEX), among others.

- proposals to create or revise sectoral legislation related to the management of the country's natural resources;
- iv. To issue opinions on proposals for the ratification of international conventions, treaties and agreements concerned to the environment;
 - v. To make proposals for the creation of incentives, financial or otherwise, to encourage economic agents to adopt environmentally sound procedures in the daily use of the country's natural resources; and
 - vi. To propose mechanisms to simplify and facilitate the licensing process for activities related to the use of natural resources and pronounce on conflicts of interest in the area of the environment.

It is worth noting that Article 6(3) of the Environment Law stipulates that this body should also: “make recommendations to ministers in various areas of natural resource management on relevant aspects of their respective areas”; and “serve as a forum for the resolution of institutional disputes related to the use and management of natural resources”.

During MITADER's term of office, this organ lost its prominence, progressively dropping out of action and failing to perform the duties legally assigned to it. After the creation of the Ministry of Land and Environment, only one session of this important body is known to have been held. The reasons for its inaction are unknown, and so we would argue that, during the current government's term of office, it should resume its work, taking into account, among many other challenges, the need to promote more integrated government action in line with the objective of sustainable development.

This organ could also play a key role in advising the Government on ways to ensure the conservation of the coastal zone, in line with the provisions of international and national instruments in force in the Mozambican legal system, at a time when there is a rush to exploit heavy sands located in the dunes and beaches along the coast, with serious environmental, climatic and economic implications (in the latter case, considering the significant impact on the coastal tourism sector).

4.2 Provincial governance

4.2.1 Provincial decentralised governance bodies

At the provincial level, following the 2018 constitutional review, there was a duplication of provincial entities overseeing the environment, due to the possibility of decentralised provincial governance bodies on the one hand, and provincial state representation services on the other.

In the first case, see Law No. 4/2019 of 31 May (amended by Law No. 5/2024 of 4 June), which establishes the Principles, Organisational Rules, Powers and Functioning of the Provincial Decentralised Governance Executive Body. The powers of the Provincial Governor and the Provincial Executive Council are detailed in Decree No. 64/2020, of 7 August²⁵. This Decree also defined the structure of the Provincial Executive Council, including, among others, the Provincial Directorate for Territorial Development and Environment (DPDTA), as a provincial organisational unit with responsibilities in the areas of rural development, the environment, forests and wildlife, land and territorial planning [Articles 6, No. 1 k) and 21 of Decree No. 64/2020, of 7 August].

²⁵ See Articles 3 and 4 of Decree No. 64/2020, of 7 August.

The DPDTA is responsible for the following functions regarding the environment:

- i. Implementing the environmental and ecological zoning plan;
- ii. Developing reforestation, tree planting and conservation programmes;
- iii. Carrying out civic and environmental education programmes;
- iv. Implementing rules for the management, protection, conservation, supervision and monitoring of the use of natural resources;
- v. Implementing policies for the integration of the green economy, biodiversity and climate change into sectoral programmes;
- vi. Implementing measures to prevent degradation and to control environmental quality;
- vii. Implementing initiatives for the prevention, control and recovery of degraded soils;
- viii. Ensuring the participation of local communities in the management of natural resources and ecosystems;
- ix. Implementing measures to combat water pollution; and
- x. Implementing programmes to combat the degradation of mangroves and aquatic and coastal ecosystems (Article 21, No. 1 of Decree No. 64/2020, of 7 August).

4.2.2 State representation in the province

Law No. 7/2019, of 31 May, defined the legal framework for the organisation and functioning of the State's representative bodies in the Province; and Decree No. 63/2020, of 7 August, approved the respective regulations. According to Article 6 A, No. 1, Law No. 7/2019, of 31 May, "In the pursuit of their duties and powers, the State representative bodies shall articulate with decentralised entities, which include provincial decentralised governance bodies and local authorities".

According to Articles 8 g) and 17 of Decree No. 63/2020, of 7 August, the structure of this new body is considered, which includes, among others, the Provincial Environment Service, which has powers in the areas of the environment itself, land, forests and agroforestry plantations, and conservation and wildlife. With regard to the environment, the functions of this Service are as follows:

- i. Participating in the licensing and supervision of activities in the sector, in accordance with the law;
- ii. Promoting the integrated and sustainable management of the rural, urban and marine environment;
- iii. Implementing bilaterally and multilaterally agreed agreements;
- iv. Disseminating legislation related to the environment;
- v. Establishing measures to prevent degradation and control environmental quality;

- vi. Promoting solid waste and effluent management initiatives;
- vii. Promoting initiatives for the prevention, control and recovery of damaged land (Article 17 No. 2 of Decree No. 63/2020, of 7 August)

We can see how, at the provincial level, we currently have two bodies with the same mandate: the Provincial Directorate for Territorial Development and Environment (DPDTA) and the Provincial Environment Services (SPA), which results in unnecessary duplication of power and the dispersion of the already scarce resources, thereby making the model of environmental governance at the local level more complex and dysfunctional. The creation of new entities has not been accompanied by a strengthening/increase in the capacity for intervention in the environmental field.

4.3 Local governance

4.3.1 Local authorities

At the local level, there is the environmental role of local authorities, more specifically the municipalities. It is therefore important to build the necessary institutional arrangements to ensure the execution of functions in the areas of environment and climate, an aspect that is reinforced by the approval, by the Council of Ministers of the Urbanisation Policy, Resolution No. 31/2024 of 10 July, which defines an important role for local authorities in the protection and conservation of the environment and climate in the urban areas under their jurisdiction.

According to Article 15 of the new Local Authorities Law, Law No. 12/2023 of 25 August, the responsibilities of local authorities apply to the specific, common and individual interests of their respective populations, including the environment, basic sanitation and quality of life. In its turn, in the context of environmental governance, both the municipal council, which is responsible for preparing a set of proposals, and the municipal assembly, which is responsible for analysing and approving them, play a key role.

ARTICLE 51

(Powers in respect of environmental management)

The municipal assembly shall have the following powers in respect to environmental management:

- a) approving the municipality's environmental plan and ecological zoning;
- b) approving incentive programmes for activities that protect or restore environmental conditions;
- c) approving alternative energy use programmes;
- d) approving processes for the removal, treatment and disposal of solid waste, including hospital and toxic waste;
- e) approving programmes for reforestation, planting and conservation of shade trees;
- f) approving local natural resource management programmes;
- g) approving rules defining fines and other penalties or charges imposed on particularly polluting activities in the municipality;
- h) approving programmes for the dissemination of non-polluting means of transport;
- i) approving the establishment of municipal reserves, respecting State reserves and the limits of its powers;
- j) approving proposals and opinions on the definition and establishment of protected areas;
- k) approving land use plans and zoning of the coastal area and beaches.

The challenge of strengthening decentralisation and environmental governance

For municipalities to play a stronger role in environmental governance in Mozambique, it is crucial to recognise and address challenges that go beyond strictly legislative gaps in environmental law. These challenges, of a financial, administrative and policy implementation nature, have a significant influence on the effective implementation of environmental standards and policies at the local level.

Financial challenges:

Financial sustainability is a fundamental pillar for effective environmental governance by municipalities. The lack of municipal resources, arising from dependence on transfers received from the central government, which are often insufficient to cover local needs, severely limits the capacity of local authorities to invest in environmental programmes and infrastructure. Furthermore, low levels of local revenue collection, whether due to difficulties in collecting taxes and fees or the fragility of the local economic base, limit the generation of internal funds that could be used to finance specific environmental policies tailored to local needs. Finally, the insufficient training of municipal staff in the environmental field, often resulting from a lack of investment in specialised training, jeopardises the ability to develop robust projects and efficiently manage the financial resources available for the environmental field.

Administrative Challenges:

The efficiency of municipal environmental governance is also affected by administrative challenges. Ineffective coordination between different levels of government (central, provincial, and municipal) often leads to overlapping responsibilities, duplication of efforts, and a lack of synergy in the implementation of environmental policies. The absence of structured local environmental plans that identify priorities, set targets and define concrete actions to address the specific environmental issues of each municipality results in fragmented interventions with low impact. In addition, there is a lack of technical capacity at the local level, with a shortage of professionals specialised in environmental management, territorial planning with an environmental focus, environmental licensing and other areas crucial to effective environmental governance.

Barriers to the implementation of environmental policies:

Despite the existence of environmental legislation at the national level, its effective implementation at the municipal level faces several barriers. Insufficient decentralisation of decision-making authority and autonomy for local authorities on environmental issues limits their ability to adapt policies and standards to local particularities and priorities. Inadequate regulation at the municipal level, with policies that do not reflect the specificities of the territory and its environmental challenges, makes standards less effective and difficult to enforce. Limited community participation in decision-making processes and the implementation of environmental actions results in policies lacking legitimacy and support among the population. Finally, environmental enforcement at the municipal level is difficult, as structures are often not equipped with the human, technical and logistical resources necessary to monitor compliance with environmental standards, which compromises the effectiveness of local environmental governance and environmental protection.

It is essential to overcome these multifaceted challenges in order to reinforce the role of municipalities as central actors in environmental governance in Mozambique. This will require a coordinated effort that involves the increase of adequate financial resource transfers and support for the development of efficient local revenue collection mechanisms, investment in the technical training of municipal staff, the strengthening of intergovernmental coordination, support for the development of participatory local environmental plans, and the creation of solid and well-equipped municipal environmental enforcement structures. Effective decentralisation of powers and the promotion of community participation are also crucial to ensuring that environmental policies are relevant, effective and legitimately implemented at the local level.

4.3.2 District decentralised governance bodies

On the other hand, there is the role of decentralised district governance bodies, which currently continue to be governed by the legislation on local State bodies (Law No. 8/2003, of 19 May, amended by Law No. 11/2012, of 8 February, and its Regulations, approved by Decree No. 11/2005, of 10 June), taking into account the fact that the elections initially scheduled for 2024 will not take place, as stipulated by the Constitution²⁶.

²⁶ According to Article 4(4) of Law No. 1/2018, of 12 June, “Until the date of the first district elections, according to the terms set out in paragraph 3 of this article, the District Administrator shall be appointed by the Minister responsible for Local Government, after consultation with the Provincial Governor.”

According to Article 33 of LOLE, the district administrator and district government are the district's public administration bodies, both of which play a very important environmental role under the terms of the Law²⁷.

In its turn, as per Article 61 of LOLE, the district government has several responsibilities that are important for the environment, such as: i. approving proposals for the structure plan and land use planning, including ecological zones and other protected areas; ii. drawing up proposals on the definition and establishment of protected areas, to be submitted to the competent authorities; iii. approving and implementing programmes to promote activities for the maintenance, protection and restoration of the environment; iv. approving and encouraging programmes for alternative energy sources to wood and charcoal; v. defining the methods and means of collection, transport, storage and treatment of solid waste, especially from hospitals and other toxic sources; vi. provide services and make investments that are of public interest in the areas of reforestation, planting and conservation of shade trees, and waste management in parks and public gardens.

It is worth noting that the ability of district governments to become involved in environmental matters is highly dependent on the availability of financial, technical and human resources, including the allocation of financial, administrative and patrimonial autonomy, as is the case with municipalities. Building up such capacity depends largely on the advances made in the decentralisation process, which is heavily influenced by political and economic factors.

5. Funding for the environment

Some of the most significant challenges facing the sector relate to the mechanisms for financing environmental protection and climate resilience efforts.

Historically, it is worth noting that there was once a specific fund for environmental financing – the Environment Fund (FUNAB) – created by Decree No. 39/2000, of 17 October, aimed at promoting and encouraging actions or activities designed to ensure sustainable development. FUNAB's responsibilities were as follows: a. to support natural resource management activities that contribute to a healthier environment at the local level, including combating erosion and desertification; b. to contribute to the promotion of activities related to the management of environmental protection or sensitive areas, rehabilitation or recovery of damaged areas; c. support technical and scientific activities aimed at introducing technologies or good practices for sustainable development; d. promote activities related to environmental impact studies and others associated with assessing the environmental impacts of development actions or activities; e. contribute to the implementation of economic initiatives that seek to use environmentally sound technologies and production processes; and d. propose the approval of fees for environmental maintenance (Art. 2 of Decree No. 39/2000 of 17 October).

In the context of the institutional reform initiated by MITADER, the National Fund for Sustainable Development (FNDS) was created by Decree No. 6/2016 of 24 February, replacing the former Environment Fund (FUNAB). It emerged from the need to consider “the new context and paradigm of sustainable development that the country is pursuing, based on three pillars: environmental, economic and social. It adjusts its intervention to the new responsibilities and competences of the land, environment and rural development sector, seeking to ensure strategic planning that responds to the main challenges of the sector, as well as promoting greater dynamism in the process of integrated and sustainable rural development²⁸. Resolution No. 19/2017, of 13 October,

²⁷ According to Article 270 O, no. 1, of the 2004 Constitution, revised by Law no. 1/2018, of 12 June, the District bodies are: (i) the District Assembly; (ii) the District Administrator; (iii) and the District Executive Council. The implementation of this article is still pending the realisation of the first district elections.

²⁸ See Foreword to Decree No. 6/2016, of 24 February.

approved the Organic Statute of the FNDS; and Ministerial Diploma No. 68/2017, of 26 October, approved its Standard Internal Regulations.

Decree No. 22/2022, of 24 May, redefined the mandate of the FNDS, which was renamed FNDS, FP, as a legal entity under public law, with special status, in accordance with the provisions of paragraph a) of No. 3 of Article 2 of Decree No. 41/2018, of 23 July, of category A, with legal personality and capacity, endowed with administrative, financial and patrimonial autonomy.

Under the terms of Article 3 of Decree 22/2022, of 24 May, the attributions of the FNDS, FP are, among others: (i) mobilisation, generation and management of financial resources, to be applied in actions contributing to sustainable development; (ii) mobilisation of resources bilaterally and multilaterally for the implementation of sustainable development activities; (iii) promotion and support of strategies, programmes and projects that contribute to rural development in an integrated, harmonious and sustainable manner; and (iv) promotion of scientific research programmes and actions in the field of sustainable development in rural areas.

According to Article 12 of Decree No. 22/2022, of 24 May, the FNDS and FP revenues include, among others, the amounts derived from fees, taxes and fines defined under the legislation in force applicable to the areas of forestry, wildlife, the environment, land, territorial planning and conservation, with due regard for the percentages allocated to other entities; amounts from the sale of stamps or certificates produced using clean technologies; and amounts resulting from compensation for environmental accidents that have occurred in or affect the country.

With the approval of the Organic Statute of the Ministry of Agriculture and Rural Development, by Resolution No. 3/2020, of 13 March, the FNDS became part of the number of institutions under the authority of the minister in charge of this sector. The revenue generated by the environment sector started to finance the agriculture and rural development sector, leaving the environment sector facing serious difficulties to fulfil its mandate.

However, with the creation of the Ministry of Agriculture, Environment and Fisheries, the FNDS is again in the same sector as the environment, with prospects for a more effective approach to environmental and climate financing, thereby correcting the problem that persisted throughout a term of office in which the environment sector, while producing significant revenues, mostly from environmental licensing fees, ended up with the money going into a fund that was part of the agriculture sector, depriving it of the revenue it needed to fully carry out its environmental agenda.

6. Environmental crimes

6.1. Legal categories of environmental crimes in the Mozambican legal system

The provision for criminal liability is found in the Environment Law, which also refers to administrative liability. According to Article 27 of this Law, ‘Criminal offences, as well as contraventions regarding the environment, are subject to specific legislation’.

In recent years, there has been a growing concern with the criminalisation of certain types of conduct consid-

ered to be serious offences against the environmental legal order. This occurs, not only through the inclusion of legal types of crime in the Penal Code, but also in various other legislation, as we shall see below. We will now briefly analyse the main environmental crimes provided for and punished in the Mozambican legal system.

It is the responsibility of criminal law to protect the fundamental environmental values that are recognised by social and collective consciousness against manifestly serious and intolerable attacks that jeopardise the ecological balance, quality of life and balanced environment to which all citizens are entitled under the Constitution.

6.2 Environmental crimes in the Criminal Code

Law No. 24/2019, of 24 December, approved a new Penal Code²⁹. The legal types of crime under the amended Penal Code were integrated into Chapter I (Fire and Damage) and Chapter II (Crimes against the Environment) of Title III (Crimes of Common Danger). Compared to the previous Penal Code, the legislator introduced changes to the structure and content of criminal law protection of the environment, removing certain types of crime from the Penal Code because they were part of the body of extraordinary laws (such as the Law on Biodiversity and Marine Conservation), but also for reasons unknown to us, as was the case with the legal types of crimes of damage to trees, damage to animals and death and injury to animals, leaving a highly questionable legal vacuum.

In the first chapter, we have the crime of fire, flooding and other especially dangerous conduct, provided for and punished in Article 306, which, under the terms of No. 1, establishes the following: “Anyone who causes a fire, namely by setting fire to a building, construction, vehicle or means of transport, forest or grove, and thereby creates an actual danger to the life or physical integrity of others or an actual danger to the property of others, shall be punished with imprisonment of 1 to 5 years and a fine of up to 1 year.” On the other hand, under the terms of No. 2 of the aforementioned article, “The same penalty shall be imposed on anyone who causes an explosion, releases toxic or asphyxiating gases, emits radiation or releases radioactive substances, causes flooding or the collapse or collapse of a building, and thereby creates the danger described in the previous paragraph.” Paragraph 3 of the same article stipulates that if there is no danger to the life or physical integrity of persons, the penalty shall be imprisonment for up to two years. Finally, an exemption is granted “If the object of the crime is a farm, plantation, forest, grove, woodland, or field, and if it consists of small fires for the purpose of cultivating the land, with no harmful results beyond the area intended for cultivation, the perpetrator may be exempt from punishment.”

In the second chapter, referring to Crimes Against the Environment, see Article 314 of the 2019 Penal Code, which establishes the crime of illegal exploration and exploitation of mineral resources, determining that “Anyone who, without authorisation from the competent authorities or in violation of the licence granted, explores, exploits or mines mineral resources, or fails to carry out the natural recovery of the exploited area, shall be punished with imprisonment of 1 to 5 years and a fine of up to 2 years.” Therefore, this is a legal type of crime that refers us to administrative law, as well as to the procedure itself, in case of non-compliance with the provisions of the licence. The second part of the article is particularly important because it criminalises the failure to carry out ecological restoration of areas that have been subject to mining operations, once operations have ceased, in accordance with the terms of the specific legislation. Cases of this kind are quite common in the country, presenting the authorities with the challenge of implementing the law and, above all, enforcing

²⁹ Which replaced the Penal Code of 2014, approved by Law No. 35/2014 of 31 December, which had a very brief existence.

criminal liability.

Article 315 (toxic substances), which corresponded to Article 351 of the 2014 Penal Code, states that “Anyone who produces, processes, packages, imports, exports, markets, supplies, transports, keeps, stores, abandons or uses toxic, dangerous or harmful substances to human health, or operates enterprises with a potential degree of pollution, without an environmental licence or in non-compliance with it, shall be punished with imprisonment of up to 3 years and a fine of up to 2 years”. First of all, criminal liability has been increased in relation to the 2014 Penal Code, in the sense that the penalty has been increased from imprisonment and a corresponding fine to imprisonment for up to three years and a fine of up to two years. Since this is a crime of danger, two different types of situations are fundamentally covered here that are likely to meet the requirements for criminal liability. In the first case, it concerns the act of generating (in a broad sense) toxic substances that are dangerous or harmful to human health through the environment (i.e., the environment is the common thread), following any of the acts provided for (producing, processing, packaging, importing, exporting, marketing, supplying, transporting, storing, abandoning or using), as may be the case with the abandonment or disposal of obsolete pesticides, for example. The legislator failed to add to the first dimension the issue of authorisation or licensing by the competent authority, bearing in mind that, under the legislation, it is not a question of prohibiting toxic, dangerous or harmful substances, but rather any act carried out without the preventive (and continuous) control of the Public Administration. In the second case, what makes the act a legal crime is to start or maintain a potentially polluting enterprise without environmental licensing or in contravention of the provisions thereof. It is therefore very important to refer the interpreter to environmental administrative law and pay special attention to indeterminate concepts (e.g. “potential degree of pollution”).

Article 316 provides for the crime of spreading diseases (corresponding to Article 350 of the 2014 Penal Code), stipulating that ‘Anyone who spreads diseases, pests or other species that may affect or cause damage to agriculture, livestock, fauna, flora and the ecosystem shall be punished with imprisonment of 1 to 2 years and a corresponding fine.’ The only change concerns the increase in the penalty, which has gone from imprisonment for not less than one year and a corresponding fine to imprisonment for 1 to 2 years and a corresponding fine. As we stated earlier, firstly, we are dealing with the act of spreading, through diseases, pests or other species (of fauna, flora or micro-organisms, it is understood), which may cause or actually cause damage to agriculture (therefore targeting an economic sector and not necessarily the environment) and biodiversity itself (including the diversity of fauna, flora and ecosystems); secondly, comparing the weight of the criminal sanction with the seriousness of the conduct and its impacts, we believe that the penalty set remains too low.

Finally, consider the legal type of pollution crime, provided for and punished under Article 317 of the 2019 Penal Code (which corresponded to Article 354 of the 2014 Penal Code), determining, in No. 1, that, ‘Anyone who, failing to comply with legal provisions, regulations or obligations imposed by the competent authority, produces, deposits in the soil or subsoil, releases into the water or atmosphere, any toxic or polluting substances or otherwise degrades the environment, shall be punished with imprisonment of up to 2 years and a corresponding fine’. This represents an increase in the penalty compared to the 2014 Penal Code, which provided for imprisonment and a corresponding fine, whereas now the penalty is imprisonment for up to two years and a corresponding fine. According to No. 2 of the same article, ‘The same penalty shall apply to anyone who seriously causes noise pollution through the use of technical devices or installations, in particular machinery or land, river, sea or air vehicles of any kind.’ In this sense, the 2019 Penal Code split the single rule into two different paragraphs, with noise pollution caused by the use of technical devices or installations now being treated independently.

6.3 Challenges in the area of criminal law effectiveness

- i. Environmental criminal law, despite its fundamental importance for environmental protection, faces several challenges in its practical implementation. Some of the main difficulties include:
- ii. Complexity of the subject matter: environmental law is a complex legal field, with extensive legislation that is frequently updated. The technical nature of environmental crimes requires specific knowledge on the part of judges, prosecutors, lawyers and enforcement agents, which can hinder the correct application of the law.
- iii. Difficulty imputing liability: in many cases, identifying those responsible for environmental crimes is complex. Liability may be shared by several individuals or companies, or it may be difficult to establish a clear causal link between the conduct and the environmental damage.
- iv. Lack of resources: the investigation and prosecution of environmental crimes require significant financial and human resources. The lack of investment in environmental agencies and monitoring systems makes it difficult to identify and punish offenders.
- v. Economic pressure: pressure for economic development can lead to the relaxation of environmental legislation and impunity for environmental crimes. The pursuit of quick profits and a lack of environmental awareness on the part of some sectors of society contribute to the persistence of these crimes.
- vi. Environmental awareness: the lack of environmental awareness among the general population is another obstacle. Many people do not understand the importance of environmental protection and do not report environmental crimes due to a lack of knowledge or interest.
- vii. Lengthy judicial process: legal proceedings related to environmental crimes are often long and complex, and this can discourage victims and make it difficult to obtain fair compensation.

7. Conclusion

Taking into account the year in which the National Environmental Policy was approved (1995), the political and legal framework for the environment is approaching its 30th anniversary, which is more than enough time to undertake an assessment, including a review, identification and filling of gaps, improving the way certain issues are dealt with, and the introduction of new elements in view of the provisions of international and regional conventions and protocols and the evolution of the national situation itself.

Mozambique has relatively comprehensive environmental legislation, which covers various aspects of environmental management and climate change. However, the process of its implementation faces significant challenges, including a delay or lack of response from the authorities responsible for taking action. Environmental legislation, including ratified international conventions and protocols, has generally not received the necessary publicity, which may also contribute to low levels of implementation.

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At the local level, particularly in municipalities, the regulatory power granted to local authorities has not been properly and sufficiently exercised, as reflected in the drafting and approval of municipal regulations for environmental protection and climate change resilience.

There are gaps and inconsistencies in legislation, as well as overlapping competences between different government entities, which hinders the prompt and effective enforcement of laws. There is a need to reflect on the institutional framework for the environment.

Coordination between different levels of government and between different sectors (environment, agriculture, energy, etc.) is insufficient, and this jeopardises the implementation of integrated environmental policies. In this regard, the National Council for Sustainable Development, an advisory body on sustainable development operating under the aegis of the Council of Ministers, has demonstrated poor or no performance. Investment decisions in the extractive industry have been made in regions with high tourism or environmental potential, revealing a disconnect at the level of public policy.

At the central level, the ministry that superintends the environment has undergone changes over time, which does not contribute to the necessary stability and continuity of well-designed and successful policies and programmes. The creation of the MAAP provides an opportunity to consider the creation of a national environmental agency with executive functions that is not subject to changes in the structure and composition of the central government.

The institutions responsible for environmental and climate management face limitations in terms of human, financial and technical resources at all levels (central, provincial and local), which affects their ability to implement existing policies and laws.

The public funding for the environmental sector is insufficient, especially after the extinction of FUNAB and the consequent creation of FNDS and its transfer to the agriculture sector. This limits the implementation of

projects and programmes for conservation and climate change mitigation. Despite the significant revenues generated by the environmental sector, mainly from environmental licensing fees, this sector has not benefited from these revenues to pursue its mandate. Nevertheless, with the creation of MAAP, FNDS has once again been integrated into the same sector as the environment, providing an opportunity to correct the past mistake.

With the exception of crimes against wildlife, criminal accountability for environmental crimes is a huge challenge in the country, due to the complexity of evidence, the lack of resources for investigation and the slowness of judicial proceedings. The vast majority of offences remain unpunished in terms of criminal, administrative and civil liability. Issues such as dissemination and training on the handling of environmental crimes need to be addressed, invested in and monitored.

8. Recommendations

- i. Review and update the National Environment Policy and Environment Law in the light of environmental and climate needs and challenges, including the extension of environmental concepts, issues and components; the strengthening of transparency and public participation mechanisms, the reinforcement of the accountability regime and the inclusion of a strong climate approach;
- ii. Complete the regulation of the Environment Law (including aspects such as environmental insurance, strict liability, environmental incentives and electronic waste management) and enhance the mechanisms for implementing the existing regulatory framework;
- iii. Strengthen the environmental approach in various sectors of activity, with a focus on agriculture (suggesting the drafting of a Framework Law on Sustainable Agriculture) and construction (with the approval of the Code for Sustainable Construction).
- iv. Moving forward with the drafting of a Framework Law on Climate Change represents a fundamental step towards consolidating Mozambique's commitment to climate action, establishing a comprehensive, coordinated and long-term legal framework to address the challenges and seize the opportunities arising from climate change. This law should provide the principles, guidelines, governance mechanisms and instruments for greenhouse gas (GHG) emissions mitigation; adaptation to climate impacts, climate finance, public participation and accountability;
- v. Strengthening inter-institutional coordination between different levels of government and between different sectors, through the creation of cooperation mechanisms and the clear definition of responsibilities, including rethinking the role of CONDES;
- vi. Consider the creation of a national environmental agency with executive functions that is not subject to changes in the structure and composition of the central government and that may arise from the redesign of AQUA;
- vii. Support municipalities in the process of drafting municipal policies in the areas of environment and climate as a crucial condition for ensuring that standards are effective, meet local needs and comply with national legislation; training leaders and technicians from municipal structures in the exercise of their functions in the areas of environment and climate;
- viii. Invest in institutional capacity building through human resources training, infrastructure strengthening and increased budget allocation for the environmental sector, with a particular focus on the local level of governance;
- ix. Disseminate, at all levels, the legal framework on the environment (constitutional, international and legal), which is largely unknown and under-implemented, with a focus on the exercise of environmental citizenship;
- x. Propose the ratification of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, signed in Aarhus, Denmark, on 25 June 1998;
- xi. Strengthen environmental justice by creating effective mechanisms for the investigation and prosecution of environmental crimes (such as regulating the right of popular action), as well as raising awareness in society of the importance of environmental protection and climate resilience;
- xii. Increase public funding for the environmental sector by allocating resources from the General State Budget and mobilising additional resources from development partners. Special mention should be made of access to climate finance, within the framework of the ratification of various international

climate instruments;

- xiii. Promote public participation in decision-making processes on environmental issues by creating mechanisms for consultation and dialogue with civil society, such as forums or other similar bodies;
- xiv. It is urgent to continue integrating and strengthening environmental issues in sectoral policies (agriculture, construction, trade, industry, etc.), as well as in the sectoral legal framework, in order to promote sustainable development.

9. References

Consulted legislation

- Constitution of the Republic of Mozambique (2004), revised by Law No. 1/2018, of 12 June and Law No. 11/2023, of 23 August;
- Law No. 10/2022, of 7 July – Maritime Courts Law;
- Law No. 35/2014, of 31 December – approves the Penal Code;
- Law No. 24/2019, of 24 December – approves the Penal Code;
- Law No. 10/99, of 7 July, Law on Forestry and Wildlife – LFFB;
- Law No. 12/2023 of 25 August – approves the Law of Local Government;
- Law No. 16/2014 of 20 June, amended and republished by Law No. 5/2017, of 11 May – Law on the Protection, Conservation and Sustainable Use of Biological Diversity;
- Law No. 17/2023, of 29 December – Law on Forestry and Wildlife;
- Law No. 20/2014, of 18 August, amended by Law No. 15/2022, of 19 de December – Mining Law;
- Law No. 20/2019, of 8 November – Law of the Sea;
- Law No. 20/97, of 1 October – Environmental Law;
- Law No. 22/2013, of 1 November – Fisheries Law;
- Law No. 4/2019, of 31 May (amended by Law No. 5/2024, of 4 June) – establishes the Principles, Organisational Rules, Powers and Functioning of the Provincial Decentralised Governance Executive Body;
- Law No. 7/2019, of 31 May – defines the Legal Framework on the Organisation and Functioning of the Representative Bodies of the State in the Province;
- Law No. 8/2003, of 19 May, amended by Law No. 11/2012, of 8 February – Law on Local State Bodies;
- Presidential Decree No. 1/2025, of 16 January – abolishes Ministries and State Secretariats and creates Ministries;
- Presidential Decree No. 1/2015, of 16 January – abolishes, among others, the Ministry for the Coordination of Environmental Action and creates, in its place, the Ministry of Land, Environment and Rural Development (MITADER);
- Presidential Decree No. 1/2020, of 17 January – extinguishes the Ministry of Land, Environment and Rural Development (MITADER) and creates the Ministry of Land and Environment;
- Presidential Decree No. 13/2015, of 16 March – defines the duties and powers of MITADER;
- Presidential Decree No. 2/94, of 21 December – creates the Ministry for the Coordination of Environmental Action (MICOA);
- Decree No. 80/2010, of 31 December – creates the National Agency for Environmental Quality Control

(AQUA);

- Decree No. 78/2022 of 30 December – redefines the mandate of AQUA;
- Decree No. 11/2024, of 3 April - approves the Regulation of the Framework Law on Local Authorities;
- Decree No. 11/2005 of 10 June – approves the Regulation of the Law for the Local State Bodies;
- Decree No. 13/2013 of 11 April – approves the Regulation for the National Council for Sustainable Development (CONDES); \
- Decree No. 16/2015, of 5 August – approves the Regulation on the Management and Control of Plastic Bags;
- Decree No. 18/2004, of 2 June, amended by Decree No. 67/2010 of 31 de December – approves the Regulation on Environmental Quality and Effluent Emission Standards;
- Decree No. 19/2007, of 9 August – Regulation on Access to and Benefit-Sharing of Genetic Resources;
- Decree No. 2/2016, of 10 February – creates the Sustainable Development Fund (FND) and abolishes the CDSs, transferring their human, material and financial resources to the National Agency for Environmental Quality Control (AQUA).
- Decree No. 21/2017, of 24 May – approves the Regulation Establishing the Legal Regime for the Use of National Maritime Space;
- Decree No. 23/2018, of 3 May – approves the Regulation for the Implementation of Projects to Reduce Emissions from Deforestation and Forest Degradation, Conservation and Enhancement of Carbon Stocks;
- Decree No. 24/2008, of 1 July – approves the Regulation on the Management of Substances that Deplete the Ozone Layer;
- Decree No. 25/2008, of 1 July – approves the Regulation for the Control of Invasive Alien Species;
- Decree No. 25/2011, of 15 June – approves the Regulation on the Environmental Audit process;
- Decree No. 25/2024 of 26 April – approves the Regulation on the Management of Chemicals and Persistent Organic Pollutants;
- Decree No. 26/2004 of 20 August – approves the Environmental Regulation for Mining Activity;
- Decree No. 31/2015, of 31 December, amended by Decree No. 48/2022 of 13 October – approves the regulation of the Mining Law;
- Decree No. 32/2003, of 12 August – approves the first Regulation on Environmental Auditing;
- Decree No. 34/2016 of 24 August – approves the Regulation on International Trade in Endangered Species of Wild Fauna and Flora;
- Decree No. 40/2000, of 17 October – approves the Regulation of the National Council for Sustainable Development (CONDES);
- Decree No. 45/2004, of 29 September, amended by Decree No. 42/2008, of 4 November – approves the

regulation on the Environmental Impact Assessment Process – EIA;

- Decree No. 45/2006, of 30 November – approves the Regulation for the Prevention of Pollution and Protection of the Marine and Coastal Environment;
- Decree No. 45/2024 of 26 June – approves the Regulation on the Environmental Audit Process;
- Decree No. 51/2021, of 19 July – approves the Regulation on the Protection, Conservation and Sustainable Use of Avifauna;
- Decree No. 54/2015, of 31 December – approves the Regulation on the Environmental Impact Assessment Process – EIA;
- Decree No. 55/2010, of 22 November – approves the Regulation on the Prohibition of Asbestos and its Byproducts;
- Decree No. 63/2020 of 7 August – approves the regulation of the Law No. 7/2019, of 31 May;
- Decree No. 64/2020, of 7 August – approves the regulation of the Law No. 4/2019, of 31 May;
- Decree No. 70/2013 of 20 December – approves the regulation on Procedures for the Approval of Projects to Reduce Emissions from Deforestation and Forest Degradation;
- Decree No. 71/2014, of 28 November – approves the regulation on Biosafety Relating to the Management of Genetically Modified Organisms;
- Decree No. 76/98, of 29 December – approves the first Regulation on the Environmental Impact Assessment Process – EIA;
- Decree No. 79/2017, of 28 December – approves the Regulation on the Extended Responsibility of Producers and Importers of Packaging;
- Decree No. 8/2003, of 18 February – approves the Regulation on the Management of Biomedical Waste;
- Decree No. 82/2017, of 29 December – approves the Regulation on Hunting;
- Decree No. 82/2021, of 15 October – approves the Regulation on Sport and Recreational Fishing;
- Decree No. 83/2014, of 31 December – approves the Regulation on Hazardous Waste Management;
- Decree No. 89/2017, of 29 December – approves the Regulation of Law No. 16/2014, of 20 June, Law on the Protection, Conservation and Sustainable Use of Biological Diversity;
- Decree No. 89/2020, of 8 October – approves the Regulation on Sea Fishing – REPMAR;
- Decree No. 94/2014, of 31 December – approves the Regulation on Urban Solid Waste Management;
- Decree No. 97/2020, of 4 October – approves the Regulation on Coastal Zone and Beach Management;
- Diploma Ministerial No. 44/2020 of 18 August – approves the Internal Regulation of the Ministry of Land and Environment;
- Diploma Ministerial No. 26/2025 of 10 March – approves the Environmental Tax Regime on Packaging;

- Resolution No. 10/2020, of 6 May – approves the Organic Statute of the Ministry of Land and Environment;
- Resolution No. 6/2015, of 26 June – approves the Organic Statute of the Ministry of Land and Environment.

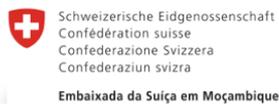
Internacional Conventions and Protocols

- Resolution No. 18/81, of 30 December – ratifies the African Convention on the Conservation of Nature and Natural Resources (Algiers, 15 September 1968);
- Resolution No. 20/81, of 30 December – ratifies the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Washington, 30 April 1973);
- Resolution No. 1/94, of 24 August – ratifies the United Nations Convention on Climate Change (Rio de Janeiro, 1992);
- Resolution No. 2/94, of 4 August – ratifies the United Nations Convention on Biological Diversity (Rio de Janeiro, 1992);
- Resolution No. 17/96, of 26 November – ratifies the Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region (Nairobi, 21 June 1985).



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