

It is unacceptable to pay illegal debts

Position statement of FMO, GMD and CTJF in relation to Mozambique's debt crisis

1. We, Mozambican citizens, from the civil society organizations, which are members of the Budget Monitoring Forum (FMO), Mozambique Debt Group (GMD) and Transparency and Fiscal Justice Coalition (CTJF), refuse to pay private companies' debts illegally guaranteed by the Government of Mozambique (GoM).
2. The debts of private companies (EMATUM, in the amount of 850 million US dollars; ProIndicus, in the amount of 622 million US dollars; and Mozambique Assets Management – MAM, at 535 million US dollars) guaranteed by the Government of Mozambique, were contracted unconstitutionally, as they were not submitted to the Assembly of the Republic (AR) for assessment, approval and monitoring.
3. The non-submission of the debts to the AR was a violation of clause p) of paragraph 2 of article 179 of the Constitution of the Republic of Mozambique (CRM), according to which, it is the exclusive competence of the Assembly of the Republic to *“authorize the Government, defining the general conditions, to contract or grant loans, perform other credit operations, for a period longer than a fiscal year and to set the maximum limit of guarantees to be granted by the State”*.
4. Apart from the unconstitutionality of the three debts mentioned above, these were also illegal as they were not entered into the State Budget (OE) of the relevant fiscal year. The debts of ProIndicus and MAM were contracted with guarantees exceeding the limits established by the 2013 Budget Law (article 11 of Law nr.1/2013, of 7 January, which approves the State Budget for 2013).
5. The EMATUM debt was entered in the State Budget for 2015, after the unconstitutionality and illegality committed during the contracting of this loan. We appeal to the AR to prevent the repetition of this procedure with the MAM and ProIndicus debts.

6. In more concrete terms, we demand the Government:
- i. **To disclose in open, freely accessible sources (online and in all media) all the information related to the Mozambican public debt** (total amount of debt, debtor and creditor entities, repayment terms and conditions agreed), for the knowledge of Mozambican citizens because it is they who will pay those debts;
 - ii. **A public, detailed explanation to Mozambicans of the real implications** of the heavy debt for the country, and above all for the **citizen's pocket**, to whom sovereignty belongs in constitutional terms;
 - iii. **A public presentation of an action plan (developed in an inclusive manner) with actions the public can monitor** on how to hold the authors accountable for unconstitutionally and illegally granting State guarantees to private companies;
 - iv. **A public, detailed presentation of austerity measures to overcome the current economic and debt crises**, with a clear indication of the amounts to be saved and the sectors to be cleaned up, without sacrificing the social sectors nor harming the most needy citizens.
 - v. **Public, detailed indication of measures to adopt in case the companies find it impossible to settle the debts within the term and amounts previously agreed, who are or shall be the financiers, to what amounts and under which conditions?**

We demand the Assembly of the Republic:

- i. **To prevent the “legalization” and transformation of the debts of ProIndicus and MAM into sovereign debts;**
- ii. **To prepare and approve a law of fiscal accountability for those who violate the budget law**, especially by disregarding the limits of guarantees set out each financial year;
- iii. **To conduct a parliamentary inquiry into the debts contracted by private companies with State guarantees**, determining the civil and criminal liabilities that may exist.

7. We demand from the Administrative Court (TA):

- i. **A public statement on the current public debt crisis** without waiting to do so in the 2015 State General Account report, as that could be too late;
- ii. **To conduct a thorough forensic audit of Mozambique's public debt** (to be widely publicized), providing information on the types of Mozambique's debts (domestic, foreign, concessional, commercial), including the total amount of State guarantees issued to private companies, with details on: grant dates, creditors, debt terms, beneficiaries and repayment plans;
- iii. Establishing exemplary measures of **Administrative accountability** (devolution of money benefited from unduly – individuals or legal entities) and **criminal liability for those who authorized** operations and procedures that flagrantly **violated** the Budget Law and the **Constitution of the Republic** of Mozambique;

8. **We demand the Central Office for Combating Corruption (GCCC):**

- i. **To conduct an investigation to determine criminal and civil liabilities** in relation to processes during which private companies incur debt with State guarantees, including the acquisition of defense and security equipment by entities outside the State;
- ii. **To publicly present the findings of such an investigation**, including measures to adopt, for public scrutiny.

The FMO calls upon the Mozambican authorities (the Government, the Assembly of the Republic, the Office of the Attorney-General and the Administrative Court) to investigate the processes in which of EMATUM, ProIndicus and MAM incurred these debts, and to publish the relevant findings, thus avoiding a Mozambican matter only being investigated abroad, such as is the case of the United Kingdom, which has recently announced the beginning of a probe into Credit Suisse and VTB banks to determine if there was violation or not of British legislation during financing operations of those three companies.

In conclusion, we reiterate our availability for civil mobilization to strengthen the Rule of Law and to defend Mozambicans' public interest, by **refusing to pay debts contracted with State guarantees in an unconstitutional and illegal manner.**

In defense of the common good and against the continued impoverishment of the Mozambican people, WE DO NOT WANT, DO NOT ACCEPT AND WILL NOT

PAY THE DEBTS OF EMATUM, ProIndicus, MAM and others that may be disclosed in future and which may have followed the same illegal procedure!

Organizations members of FMO, GMD and CTJF:

Centre for Civil Society Learning and Capacity-Building (CESC); Mozambican Debt Group (GMD); N'weti – Communication for Health; Centre for Public Integrity (CIP); Community Development Foundation (FDC); ActionAid Mozambique (AAMoz); Rural Observatory (OMR); Mozambique NGO's League (JOINT); Civil Society Forum for Children's Rights (ROSC); Community Radios Forum (FORCOM); Helvetas Swiss Intercooperation; Muleide – Women, Law and Development; Mozambican Civil Society Platform for Social Protection (PSCM-PS); WLSA – Women and Law in Southern Africa; Associação Progresso; Kulima; TEA; Fórum Mulher; Rede Activa; Rural Women's Association; Mozambique Workers Organization (OTM – Trade Union); CENTME; SENTIHOT; SINECE; The Oppressed Theatre Group; Open Society (OS); The Christian Council of Mozambique (Branches of Maputo, Gaza, Inhambane and Cabo Delgado); Association for Women Empowerment and Development; The Basic Education Development Unit – Laboratory.