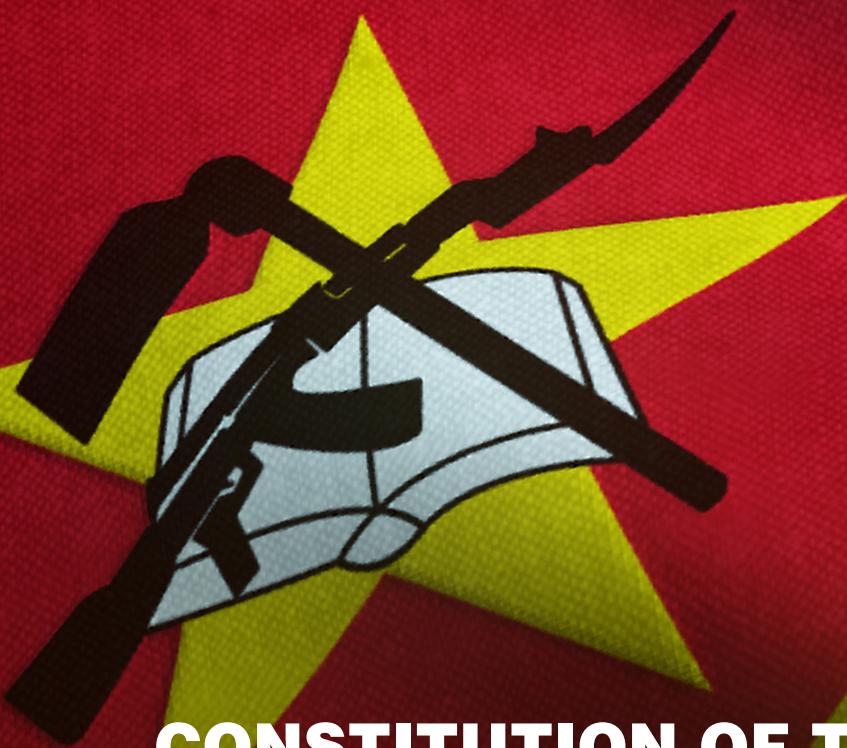


REPUBLIC OF MOZAMBIQUE  
CONSTITUTIONAL COUNCIL



**CONSTITUTION OF THE  
REPUBLIC OF MOZAMBIQUE**

dated 2004 and as amended and republished by Law No. 1/2018 of 12 June

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ENGLISH

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ENGLISH  
2021

# CREDITS

## **TITLE**

Constitution of the Republic of Mozambique

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Constitutional Council

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## **DISCLAIMER**

The English version of the Constitution of the Republic of Mozambique is a translation of the original in Portuguese published in Official Gazette (Boletim da República). The English version is for information purposes only. In case of a discrepancy, the original Portuguese version shall prevail.

A versão inglesa da Constituição da República de Moçambique é uma tradução do original em português, publicada no Boletim da República. A versão inglesa tem um carácter estritamente informativo, sendo que, em caso de discrepância, prevalecerá a versão original em português.

# **CONSTITUTION OF THE REPUBLIC OF MOZAMBIQUE**

## **Preamble**

The Armed Struggle for National Liberation, the purpose of which was to liberate the land and Man, responding to the historic desires of our People, brought together all the patriotic layers of Mozambican society in the same ideal of freedom, unity, justice and progress,

Upon the conquest of National Independence on 25 of June 1975, the fundamental rights and freedoms were restored to the Mozambican people.

The Constitution of 1990 introduced the Democratic Constitutional State, based on the separation and interdependence of powers and on pluralism, setting out the structural parameters of modernisation, contributing decisively to the establishment of a democratic climate that led the country to hold its first multiparty elections.

The present Constitution reaffirms, develops and deepens the fundamental principles of the Mozambican State, consecrates the sovereign nature of the Democratic Constitutional State, based on pluralism of expression, political party organisation and on respect and guarantee of the citizen's fundamental rights and freedoms.

The wide participation of citizens in the elaboration of the fundamental law reflects the consensus resulting from the wisdom of all in strengthening democracy and national unity.

Now therefore, the Assembly of the Republic determines:

**TITLE 1**  
**FUNDAMENTAL PRINCIPLES**

**CHAPTER I**

**Republic**

Article 1

**(Republic of Mozambique)**

The Republic of Mozambique is an independent, sovereign, democratic and of social justice State.

Article 2

**(Sovereignty and Legality)**

1. Sovereignty is vested in the people.
2. The Mozambican people shall exercises the sovereignty in the manners provided for in the Constitution.
3. The State is subordinate to the Constitution and is founded on legality.
4. The constitutional norms shall prevail over all the other norms of the legal order.

Article 3

**(Democratic Rule of Law)**

The Republic of Mozambique is a State governed by the rule of law, based on the pluralism of expression, the democratic political organisation and on the respect for and guarantee of the fundamental human rights and freedoms.

## Article 4

### **(Legal Pluralism)**

The State recognizes the different normative and dispute resolution systems that co-exist in the Mozambican society, to the extent that they are not contrary to the Constitution's fundamental values and principles.

## Article 5

### **(Nationality)**

1. The Mozambican nationality may be by origin or may be acquired.
2. The requirements for the attribution, acquisition, loss and re-acquisition of nationality are determined by the Constitution and regulated by the law.

## Article 6

### **(Territory)**

1. The territory of the Republic of Mozambique is one, indivisible and inalienable, comprising the entire land surface, the maritime zone and the air space delimited by the national borders.
2. The law shall establish the extent, the limits and the regime of the territorial waters, the exclusive economic zone, the contiguous zone and the rights over the seabed of Mozambique.

## Article 7

### **(Territorial Organisation)**

1. The Republic of Mozambique is territorially divided into provinces, districts, administrative posts, localities and settlements.
2. The urban zones are structured in cities and towns.

3. The definition of the characteristics of territorial divisions as well as the creation of any new divisions and the establishment of powers under the political-administrative organisation is established by law.

## Article 8

### **(Unitary State)**

1. The Republic of Mozambique is a unitary State.
2. The State is guided by decentralisation and subsidiarity principles.
3. In its organisation and functioning, the State respects the autonomy of the provincial and district government's bodies and of the local authorities.

## Article 9

### **(National Languages)**

The State shall value the national languages as cultural and educational heritage and shall promote their development and increasing use as languages that convey our identity.

## Article 10

### **(Official Language)**

The Portuguese language shall be the official language in the Republic of Mozambique.

## Article 11

### **(Fundamental Objectives)**

The fundamental objectives of the Mozambican State shall be:

- a) the defence of independence and sovereignty;
- b) the consolidation of national unity;
- c) the building of a social justice society and the creation of the material and spiritual well-being and quality of life of the citizens;
- d) the promotion of balanced economic, social and regional development of the country;
- e) the defence and the promotion of human rights and the equality of the citizens before the law;
- f) the strengthening of democracy, freedom, social stability and social and individual harmony;
- g) the promotion of a society of pluralism, tolerance and culture of peace;
- h) the development of the economy and the scientific and technological progress;
- i) the affirmation of the Mozambican identity, of its traditions and other social and cultural values;
- j) the establishment and development of relations of friendship and cooperation with other peoples and States.

## Article 12

### **(Lay State)**

1. The Republic of Mozambique shall be a lay State.
2. The lay nature of the State derives from the separation between the State and the religious denominations.
3. The religious denominations shall have freedom regarding their organisation and in the exercise of their functions and worship and they shall abide by the laws of the State.
4. The State shall recognise and value the activities of religious denominations aimed at promoting a climate of understanding, tolerance and peace and the strengthening of national unity, the spiritual and material well-being of citizens, and economic and social development.

## Article 13

### **(National Symbols)**

The symbols of the Republic of Mozambique shall be the national flag, emblem and anthem.

## Article 14

### **(Historical Resistance)**

The Republic of Mozambique shall value the heroic struggle and the Mozambican people's historical resistance against foreign domination.

## Article 15

### **(National Liberation, Defence of Sovereignty and Democracy)**

1. The Republic of Mozambique shall recognise and value the sacrifices of those who gave their lives to the struggle for national liberation, and to the defence of the sovereignty and democracy.
2. The State shall ensure special protection to those who were disabled during the struggle for the national liberation, as well as the orphans and other dependents of those who died in this cause.
3. The law shall determine the terms of implementation of the rights set for in this article.

## Article 16

### **(War Disability)**

1. The State shall ensure special protection to those who were disabled during the armed conflict that ended with the signature of the General Peace Agreement in 1992, as well as to the orphans and other direct dependents.

2. The State shall also protect those who have been disabled in the performance of public service or in a humanitarian act.
3. The law shall determine the terms of implementation of the rights set for in this article.

## CHAPTER II

### **(Foreign Policy and International Law)**

#### Article 17

##### **(International Relations)**

1. The Republic of Mozambique shall establish relations of friendship and cooperation with other States on the basis of principles of mutual respect for the sovereignty and territorial integrity, equality, non-interference in the internal affairs and reciprocity of benefits.
2. The Republic of Mozambique shall accept, observe and apply the principles of the Charter of the United Nations Organisation and of the Charter of the African Union.

#### Article 18

##### **(International Law)**

1. International agreements and treaties validly approved and ratified, shall enter into force in the Mozambican legal order upon their official publication and while they are internationally binding on the State of Mozambique.
2. The norms of international law shall have in the internal legal order the same value as the infra-constitutional legislative norms enacted by the Assembly of the Republic and by the Government, according to the respective manner in which they are received.

## Article 19

### **(International Solidarity)**

1. The Republic of Mozambique shall be in solidarity with the struggle of African peoples and States, for unity, freedom, dignity and the right to economic and social progress.
2. The Republic of Mozambique shall seek to strengthen relations with countries committed to the consolidation of their national independence, of democracy and in recovering the use and control of their natural wealth in favour of their respective peoples.
3. The Republic of Mozambique shall join with all the States struggling for the establishment of a fair and equitable economic order in international relations.

## Article 20

### **(Support of People's Freedom and Asylum)**

1. The Republic of Mozambique shall support and be in solidarity with the peoples' struggles for their national freedom and for democracy.
2. The Republic of Mozambique shall grant asylum to foreigners persecuted due to their struggle for national liberation, democracy, peace and the defence of human rights.
3. The law shall define the political refugee status.

## Article 21

### **(Special Ties of Friendship and Cooperation)**

The Republic of Mozambique shall maintain special ties of friendship and cooperation with the countries of the region, with the countries whose official language is Portuguese and with the countries that host Mozambican emigrants.

## Article 22

### **(Policy of Peace)**

1. The Republic of Mozambique shall pursue a policy of peace and shall only resort to the use of force in case of self-defence.
2. The Republic of Mozambique shall support the primacy of negotiated solutions to conflicts.
3. The Republic of Mozambique shall defend the principle of general and universal disarmament of all States.
4. The Republic of Mozambique shall advocate the transformation of the Indian Ocean in a peaceful and nuclear-free zone.

## TITLE II

### **NATIONALITY**

#### Chapter I

##### **Nationality by Origin**

## Article 23

### **(Jus Soli and Jus Sanguinis)**

1. The following persons shall, provided that they were born in Mozambique, be Mozambicans:
  - a) The children of a father or mother who were born in Mozambique;
  - b) The children whose parents are stateless or whose nationality is unknown;
  - c) Those who were domiciled in Mozambique at the date of independence and have not chosen any other nationality, expressly or tacitly.

2. The children of a Mozambican father or mother working for the State abroad, even if they were born overseas, are Mozambicans.
3. The children of a Mozambican father or mother even if born abroad, provided that they have expressly declared that they intend to be Mozambicans, either on their own behalf, being adults attaining eighteen years, or through their legal representatives, if younger.

## Article 24

### **(Jus Soli)**

1. The citizens born in Mozambique after the proclamation of independence are Mozambicans.
2. An exception is made for the children of foreign father and mother when either of them is in Mozambique at the service of his or her State.
3. The citizens referred to in the preceding paragraph shall only have the Mozambican nationality if they declare that they intend to be Mozambicans, on their own behalf, if they are adults aged eighteen years, or through their legal representatives, if younger.
4. The period for the declaration referred to in the preceding paragraph is one year, counting from the date of birth or from the date on which the interested person completes eighteen years of age, if the declaration is made by the legal representative or by the interested party, respectively.

## Article 25

### **(By Age of Majority)**

Persons who meet the requirements for the acquisition of nationality by origin, not having acquired it by virtue of choice of their legal representatives, shall be Mozambicans provided that, being adults aged

eighteen years and until one year after attaining the age of majority, they personally declare that they intend to be Mozambicans.

## CHAPTER II

### **Acquired Nationality**

#### Article 26

##### **(By Marriage)**

1. A foreign person who has been married to a Mozambican citizen for at least five years acquires Mozambican nationality, except in cases of stateless person, provided that all the following conditions are met:
  - a) he or she declares that he or she wishes to acquire the Mozambican nationality;
  - b) he or she meets the requirements and offers the guarantees established by law.
2. The nationality acquired by the spouse shall not be prejudiced by the declaration of annulment or dissolution of the marriage.

#### Article 27

##### **(By Naturalisation)**

1. The Mozambican nationality by naturalisation may be granted to foreigners who, at the time of submission of their application, meet all the following conditions:
  - a) that they have resided in Mozambique habitually and regularly for at least ten years;
  - b) that they are adults aged at least eighteen years;
  - c) that they know Portuguese or a Mozambican language;
  - d) that they have the capacity to take care of their own affairs and are capable to ensure their own subsistence;

- e) they have civic probity;
- f) they fulfil the requirements and offer the guarantees established by law

2. The foreigners who have provided relevant services to the Mozambican State shall be exempted from the conditions set out in paragraphs a) and c), in the terms prescribed by law.

## Article 28

### **(By Filiation)**

The Mozambican nationality may be granted by virtue of naturalisation to the unmarried children under eighteen years of age, of a citizen who has acquired the Mozambican nationality.

## Article 29

### **(By Adoption)**

A person who is adopted fully by a Mozambican national acquires the Mozambican nationality.

## Article 30

### **(Restrictions on the Performance of Functions)**

1. The citizens with acquired nationality shall not be eligible to be members of the Assembly of the Republic or members of the Government, positions in sovereign bodies nor shall they be eligible to access the diplomatic or military career.
2. The law defines the conditions under which citizens who have acquired the Mozambican nationality may perform public duties or private duties of public interest.

## CHAPTER III

### **Loss and Reacquisition of Nationality**

#### Article 31

##### **(Loss of Nationality)**

Mozambican nationality shall be lost by a person who:

- a) being national of another State, declares by the appropriate means that he or she does not wish to be a Mozambican;
- b) has been granted the Mozambican nationality as a minor by virtue of a legal representative declaration, if he or she declares by the appropriate means until one year upon reaching the age of majority, that he or she does not wish to be a Mozambican and provides evidence of holding another nationality.

#### Article 32

##### **(Reacquisition)**

1. Mozambican nationality may be granted to those who, after losing it, re-apply for it, provided that they meet all the following conditions:
  - a) that they establish their domicile in Mozambique;
  - b) that they meet the requirements and offer the guarantees established by the law.
2. A Mozambican woman who has lost the nationality by virtue of marriage may reacquire it by means of an application to the competent authorities.
3. Reacquisition of nationality shall restore the legal situation prevailing prior to the loss of nationality.

## CHAPTER IV

### **Prevailing Nationality and Registration**

#### Article 33

##### **(Prevalence of the Mozambican Nationality)**

For persons who are Mozambican nationals under the terms of the laws of the Republic of Mozambique, no other nationality shall be recognised or have any legal effect in the Mozambican legal order.

#### Article 34

##### **(Registration)**

The registration and proof of acquisition, loss and reacquisition of Mozambican nationality shall be regulated by law.

## TITLE III

### **FUNDAMENTAL RIGHTS, DUTIES AND FREEDOMS**

#### CHAPTER 1

##### **(General Principles)**

#### Article 35

##### **(Principle of Universality and Equality)**

All citizens shall be equal before the law, shall enjoy the same rights and shall be subject to the same duties, regardless of the colour, race, sex, ethnic origin, place of birth, religion, level of education, social position, marital status of their parent, profession and their political preference.

## Article 36

### **(Principle of Gender Equality)**

Men and women shall be equal before the law in all areas of political, economic, social and cultural life.

## Article 37

### **(Disability)**

Disabled citizens shall enjoy in full the rights enshrined in the Constitution and shall be subject to the same duties, except for those they are incapable of exercising or fulfilling due to their disability.

## Article 38

### **(Duty to Respect the Constitution)**

1. All the citizens shall have the duty to respect the Constitutional order;
2. Acts contrary to the provisions of the Constitution shall be punished in accordance with the law.

## Article 39

### **(Acts Contrary to the National Unity)**

All acts aiming to undermine the national unity, to jeopardise social harmony, create divisionism, situations of privilege or discrimination based on the colour, race, sex, ethnic origin, place of birth, religion, level of education, social position, physical or mental condition, marital status of parents, profession and political preference are punishable by law.

## Article 40

### **(Right to Life)**

1. All citizens shall have the right to life and to physical and moral integrity and shall not be subject to torture or cruel or inhuman treatment.
2. There shall be no death penalty in the Republic of Mozambique.

## Article 41

### **(Other Individual Rights)**

Every citizen shall have the right to honour, good name, reputation, as well as right to defend their public image and to protect their privacy.

## Article 42

### **(Scope and Meaning of Fundamental Rights)**

The fundamental rights enshrined in the Constitution shall not exclude any other rights provided for by the law.

## Article 43

### **(Interpretation of Fundamental Rights)**

The constitutional provisions regarding the fundamental rights shall be interpreted and integrated in harmony with the Universal Declaration of Human Rights and with the African Charter of Human and Peoples' Rights.

## Article 44

### **(Duties Towards Fellow Human Beings)**

Every citizen shall have the duty to respect and consider their fellow human beings, without any form of discrimination and to maintain with them relations that allow the promotion, safeguard and strengthening of respect, mutual tolerance and solidarity.

## Article 45

### **(Duties Towards the Community)**

Every citizen shall have the duty to:

- a) serve the national community, availing to its service his or her physical and intellectual capabilities;
- b) work to the best of his or her capabilities and possibilities;
- c) pay taxes and contributions;
- d) to ensure, in his or her relations with the community, the preservation of cultural values, the spirit of tolerance, dialog and, in general, to contribute to the promotion and civic education;
- e) defend and promote the public health;
- f) defend and conserve the environment;
- g) defend and protect the public and community assets.

## Article 46

### **(Duties Towards the State)**

1. Every citizen shall have the duty to contribute to the defence of the country;
2. Every citizen shall also have the duty to comply with the obligations provided for in the law and to obey the orders issued by the

legitimate authorities, in accordance with the terms of the Constitution and with respect for his or her fundamental rights.

### Article 47

#### **(Rights of Children)**

1. Children shall have the right to protection and the necessary care for their well-being;
2. Children may freely express their opinion, on the matters that relate to them, according to their age and maturity;
3. All acts related to children, carried out by a public or private entity, shall primarily take into account the best interest of the child.

## CHAPTER II

#### **(Rights, Duties and Freedoms)**

### Article 48

#### **(Freedom of Expression and Information)**

1. All citizens shall have the right to freedom of expression, freedom of press as well as the right to information.
2. The exercise of the freedom of expression, which comprises, namely, the ability to impart one's opinion by all lawful means and the exercise of the right to information, shall not be limited by censorship.
3. The freedom of press comprises, namely, the freedom of expression and creation on the part of journalists, the access to information sources, the protection of the independence and professional secrecy and the right to create journals, publications and other means of broadcasting.
4. The expression and confrontation of ideas from various strands of opinion shall be guaranteed in the public sector media.

5. The State shall guarantee the impartiality of the public sector media, as well as the independence of the journalists from the Government, the Administration and other political powers.
6. The exercise of the rights and freedoms referred to in this article shall be regulated by law on the basis of the imperatives of respect for the Constitution and for the dignity of the human person.

## Article 49

### **(Broadcasting Rights, Right of Reply and of Political Response)**

1. Political parties shall have the right of broadcasting time on public radio and television, according to their representation and criteria established by law.
2. Political parties with seats in the Assembly of the Republic, which are not part of the Government, shall in terms of the law have the right to broadcasting time on public radio and television according to their representation to exercise the right of reply and the right to respond to the political statements of the government.
3. The broadcasting right is also granted to the unions, professional organisations and organisations representing social and economic activities according to criteria established by law.
4. During electoral periods, the contestants shall have the right to regular and equitable broadcasting time on public radio and television of national or local outreach, in the terms of the law.

## Article 50

### **(Superior Council for the Media)**

1. The Superior Council for the Media is a disciplinary and consultative body which shall ensure the independence of the media in the exercise

of the right to information, to freedom of the press as well as the exercise of broadcasting rights and the right to reply. .

2. The Superior Council for the Media shall issue advisory opinion prior to the Government's decisions on the licencing of private radio and television stations.
3. The Superior Council for the Media shall intervene in the appointment and discharge of the general managers of the public sector Media bodies, in the terms of the law.
4. The law shall regulate the organisation, composition, functioning and other powers of the Superior Council for the Media.

## Article 51

### **(Right to the Freedom of Assembly and Demonstration)**

Every citizen shall have the right to freedom of assembly and demonstration within the terms of the law.

## Article 52

### **(Freedom of Association)**

1. The citizens shall enjoy the freedom of association.
2. The social organisations and associations shall have the right to pursue their goals, create institutions destined to achieve their specific objectives and to own assets to carry out their activities, within the terms of the law.
3. Armed associations of a military or paramilitary nature and those that promote violence, racism, xenophobia or that pursue objectives contrary to the law shall be prohibited.

## Article 53

### **(Freedom to Create, Participate and Adhere to Political Parties)**

1. All citizens shall have the freedom to create or participate in political parties.
2. The adhesion to a political party shall be voluntary and shall stem from the citizen's freedom to associate on the basis of the same political ideals.

## Article 54

### **(Freedom of Conscience, Religion and Worship)**

1. The citizens shall have the freedom to practice or not to practice a religion.
2. Nobody shall be discriminated, persecuted, prejudiced or deprived of his or her rights, or benefit or exempted from duties due to his or her faith, or religious belief or practice.
3. Religious denominations shall have the right to pursue freely their religious aims and to own and acquire assets for the materialisation of their objectives.
4. The protection of places of worship shall be guaranteed.
5. The right to conscientious objection shall be guaranteed in terms of the law.

## Article 55

### **(Freedom of Residence and Movement)**

1. All citizens shall have the right to establish residence in any part of the national territory.

2. All citizens shall be free to travel inside the national territory and abroad, except for those who have been legally deprived of such right by the courts.

## CHAPTER III

### **(Individual Rights, Freedoms and Guarantees)**

#### Article 56

##### **General Principles**

1. Individual rights and freedoms shall be directly applicable, shall bind both public and private entities, shall be guaranteed by the State and shall be exercised within the Constitutional framework and the law.
2. The exercise of rights and freedoms may be limited in order to safeguard other rights and interests which are protected by the Constitution.
3. The law may only limit the rights, freedoms and guarantees in the cases expressly provided for in the Constitution.
4. Legal restrictions to the rights and freedoms shall be of a general and abstract nature and shall not have retroactive effect.

#### Article 57

##### **(Non-Retroactivity)**

In the Republic of Mozambique, the laws may only have retroactive effects when they benefit the citizens and other legal persons.

#### Article 58

##### **(Right to Compensation and State Responsibility)**

1. Everyone shall have the right to claim, in terms of the law, compensation for damages caused by violation of his or her fundamental rights.

2. The State shall be liable for the damages caused by the unlawful acts of its agents, in the performance of their functions, without prejudice to the rights of recourse within the terms of the law.

## Article 59

### **(Right to Freedom and to Security)**

1. In the Republic of Mozambique everyone shall have the right to security and no one shall be arrested and subject to trial except in accordance with the law.
2. The defendants shall have the presumption of innocence until the judgement of the final court.
3. No one shall be tried more than once for the same crime, nor be punished with a penalty that was not provided for in the law or with a penalty which is heavier than the one provided for in the law at the time the criminal offence was committed.

## Article 60

### **(Enforcement of the Criminal Law)**

1. No one shall be convicted for an act, which was not qualified as a crime at the time it was committed.
2. The criminal law shall be applied retroactively only when it is to the benefit of the defendant.

## Article 61

### **(Limits on Penalties and Security Measures)**

1. Penalties and security measures which deprive or restrict freedom for a perpetual, unlimited or indefinite duration shall be prohibited.
2. Penalties shall not be transmissible.

3. No penalty shall result in the loss of any civil, professional, or political rights, nor deprive the convicted person of his or her fundamental rights, except where the restrictions are inherent to the nature of the conviction and the specific requirements of the respective execution.

## Article 62

### **(Access to Courts)**

1. The State shall guarantee the citizen's access to courts and shall guarantee to the defendants the right to defend and the right to legal assistance and representation.
2. The defendant shall have the right to freely choose his or her legal counsel to assist him or her in all the acts of the proceedings, and appropriate legal assistance and representation shall be granted to the defendant who is not able to engage a lawyer due to economic reasons.

## Article 63

### **(Attorneyship and Advocacy)**

1. The State shall ensure that attorneys are granted the necessary immunity for the performance of their functions and shall regulate the judicial representation as an essential element to the administration of justice.
2. In the exercise of their functions and within the limits of the law, the documents, correspondence and other items that may have been entrusted to the attorney by his or her client, which have been obtained for the defence of the client or which relate to his or her profession, shall be inviolable.
3. Searches, seizures or other similar proceedings in the attorney's office or files may only be authorised by a court order and shall be performed in the presence of the judge that ordered it, the attorney and one representative of the bar association appointed by the association for

this purpose, when the issue at stake is the perpetration of an unlawful act punishable by a term of imprisonment of more than two years and there is evidence that such acts were committed by the lawyer attorney.

4. The lawyer shall have the right to communicate personally and privately with his or her client, even if such client is imprisoned or held in custody in a military or civil facility.
5. The law shall regulate further requirements regarding the legal practice and advocacy.

## Article 64

### **(Preventive Imprisonment)**

1. The preventive imprisonment shall only be permitted in the cases established by the law, which shall establish the respective duration.
2. A citizen held in preventive imprisonment shall, within the deadline provided for in the law, be presented before a judicial authority, which is the only authority competent to decide on the validation and maintenance of the imprisonment.
3. Every person deprived from their freedom shall be informed promptly and in a way they can understand the reasons of his or her imprisonment or detention and of their rights.
4. The judicial order by which the imprisonment is imposed or maintained shall be immediately communicated to a relative or trusted acquaintance of the imprisoned, as indicated by the imprisoned person.

## Article 65

### **(Principles of Criminal Proceedings)**

1. The right of defence and trial in a law court shall be inviolable and guaranteed to all defendants.

2. The hearings of criminal proceedings are public, except when it is advisable to exclude or restrict publicity in order to safeguard the personal, family, social or moral privacy, or when material reasons of security of the hearing or public order so recommend.
3. All evidence obtained through the use of torture, coercion, offences to the physical or moral integrity of the person, the abusive intrusion in his or her private and familiar life or into their home, correspondence and telecommunications shall be void.
4. No case for which the jurisdiction is established by existing law, shall be withdrawn from the court, except for cases specifically provided for by law.

## Article 66

### ***(Habeas Corpus)***

1. In case of unlawful imprisonment or detention, the citizen shall have the right to resort to a *habeas corpus*.
2. The petition for a *habeas corpus* shall be submitted before a court, which shall decide on the matter within a period not longer than eight days.

## Article 67

### **(Extradition)**

1. The extradition may only take place pursuant to a court decision.
2. The extradition for political reasons shall not be authorised.
3. The extradition for criminal offences subject to life imprisonment or death penalty under the laws of the requesting State or whenever it is reasonably admitted that the extradited person may be subject to torture, inhuman, humiliating or cruel treatment, shall not be permitted.
4. Mozambican citizen may not be expelled or extradited from the national territory.

## Article 68

### **(Inviolability of Home and Correspondence)**

1. The home and the correspondence or other means of private communication shall be inviolable, except in the cases specially provided for in the law.
2. The entry into a citizen's home against their will may be ordered only by the competent judicial authority, in the cases and according to the procedures as are specifically established by law.
3. Nobody shall enter the home of any person during the night without that person's consent.

## Article 69

### **(Right to Appeal)**

Every citizen shall be entitled to contest the acts that violate their rights established in the Constitution and in other laws.

## Article 70

### **(Right to Appeal to Courts)**

Every citizen shall have the right to appeal to courts against the acts that violate their rights and interests recognised by the Constitution and the law.

## Article 71

### **(Utilisation of Data)**

1. The use of computerised means for the purposes of recording and processing individually identifiable data related to political, philosophical or ideological beliefs, of religious faith, party or trade union affiliation and of private life shall be prohibited.

2. The law shall regulate the protection of personal data held in computerised records, the conditions of access to the database, and the constitution and utilisation of such database or computer storage media by public authorities and private entities.
3. Except in cases provided for by law or by a court decision, the access to archives, files and electronic records or to a database for obtaining of personal data pertaining to a third party, as well as the transfer of personal data from one to another computerised file belonging to different services or institutions, shall be prohibited.
4. All citizens shall have the right to access to collected data that relates to them and to have such data rectified.

## Article 72

### **(Suspension of Rights)**

1. Individual freedoms and guarantees may be temporarily suspended or limited only by virtue of a declaration of state of war, state of siege or state of emergency, in accordance with the terms of the Constitution.
2. Whenever there occurs a suspension or restriction of freedoms and guarantees, they shall have a general and abstract nature and shall specify the duration and the legal grounds thereof.

## CHAPTER IV

### **Rights, Freedoms and Guarantees of Political Participation**

## Article 73

### **(Universal Suffrage)**

The Mozambican people shall exercise political power through direct, equal, secret and periodic universal suffrage, for the election of their

representatives, through referendum on major national issues and through permanent democratic participation of the citizens in the nation's life.

## Article 74

### **(Political Parties and Pluralism)**

1. The parties shall be the expression of political pluralism, they shall contribute to the formation and manifestation of people's will and shall be fundamental instruments for the democratic participation of citizens in the governance of the country.
2. The internal structure and working of political parties shall be democratic.

## Article 75

### **(Formation of Political Parties)**

1. In deep respect for the national unity and for the democratic values, the political parties shall be bound by the principles enshrined in the Constitution and in the law.
2. In their creation and in the performance of their objectives the political parties shall, namely:
  - a) have a national outreach;
  - b) defend the national interests;
  - c) contribute to the formation of the public opinion, particularly on major national issues;
  - d) strengthen the patriotic spirit of citizens and the consolidation of the Mozambican Nation.
3. Political parties shall contribute to the peace and stability of the country through the political and civic education of citizens.
4. The formation, structure, and operation of political parties is regulated by law.

## Article 76

### **(Designation)**

The political parties shall be prohibited from using designations containing expressions directly related to any religious denominations or churches or using emblems that may be confused with national or religious symbols.

## Article 77

### **(Resorting to Armed Violence)**

Political parties shall be prohibited from promoting or resorting to armed violence in order to change the political and social order of the country.

## Article 78

### **(Social Organisations)**

1. Social organisations, as forms of association with their own affinities and interests, shall have an important role in promoting democracy and in the participation of citizens in public affairs.
2. Social organisations contribute to the fulfilment of the rights and freedoms of citizens, as well as for raising individual and collective awareness in the compliance with civic duties.

## Article 79

### **(Right of Petition, Complaint and Claim)**

All citizens shall have the right to present petitions, complaints and claims before competent authorities in order to demand the restitution of their rights that have been violated or in defence of the public interest.

## Article 80

**(Right of Resistance)**

Every citizen shall have the right not to comply with orders that are unlawful or that infringe their rights, freedoms and guarantees.

## Article 81

**(Right of Popular Action)**

1. All citizens shall have the right to popular action in accordance with the law, either personally or through associations of defence of the rights in question.
2. The right to popular action shall consist of:
  - a) the right to request for the injured party or parties the compensations that they are entitled to;
  - b) the right to advocate the prevention, termination or the judicial prosecution of the offences against the public health, consumer rights, environmental conservation and the cultural heritage;
  - c) the right to defend the property of the State and of local authorities.

## CHAPTER V

**Economic, Social and Cultural Rights and Duties**

## Article 82

**(Right of Ownership)**

1. The State recognises and guarantees the right of ownership of property.

2. Expropriation may take place only in case of public necessity, utility or interest as defined in the terms of the law and is subject to payment of fair compensation.

### Article 83

#### **(Right to Inheritance)**

The State recognizes and guarantees the right to inheritance in accordance with the law.

### Article 84

#### **(Right to Work)**

1. Every citizen shall have a right and a duty to work.
2. All citizens shall have the right to freely choose their profession.
3. Forced labour shall be prohibited, except for the work performed under the framework of criminal laws.

### Article 85

#### **(Right to Retribution and Safety at Work)**

1. Every worker shall have the right to a fair remuneration, rest, vacation, and to retirement in accordance with the law.
2. Workers shall have the right to protection, safety and hygiene at work.
3. Workers may only be dismissed in the cases and per the terms established by the law.

### Article 86

#### **(Freedom of Professional Association and Union)**

1. Workers shall have the freedom to organise themselves in professional associations or trade unions.

2. Trade unions and professional associations shall be governed by the principles of democratic organisation and management, based in the active participation of their members in all of their activities and in the periodic election of their bodies by secret ballot.
3. The trade unions and professional associations shall be independent from the employers, the State, the political parties and from the churches or religious denominations.
4. The law shall regulate the creation, merger, coalition and extinction of trade unions and professional associations, as well as the respective guarantees of independence and autonomy from the employers, the State, the political parties and the churches and religious denominations.

## Article 87

### **(Right to Strike and Prohibition of Lock Out)**

1. Workers shall have the right to strike, and its exercise shall be regulated by law.
2. The law shall limit the exercise of the right to strike in the essential services and activities, in the interest of the urgent needs of the society and of national security.
3. Lockout shall be prohibited.

## Article 88

### **(Right to Education)**

1. In the Republic of Mozambique, education shall be a right and a duty of all citizens.
2. The State shall promote the extension of education to professional and continuing training and the equal access to the enjoyment of this right by all the citizens.

## Article 89

### **(Right to Health)**

All citizens shall have the right to medical and health care, in accordance with the law, and shall have the duty to promote and protect the public health.

## Article 90

### **(Right to Environment)**

1. All citizens shall have the right to live in a balanced environment and the duty to defend it.
2. The State and the local authorities shall adopt policies to protect the environment and shall promote the rational use of all natural resources, in collaboration with associations for the protection of environment.

## Article 91

### **(Housing and Urbanisation)**

1. All citizens shall have the right to adequate housing and it shall be the duty of the State to create the appropriate institutional, normative and infra-structural conditions, in accordance with national economic development.
2. The State shall also be responsible for fostering and supporting initiatives of the local communities, local authorities, and of the population in order to promote private and co-operative construction as well the access to home ownership.

## Article 92

### **(Rights of Consumers)**

1. Consumers shall have the right to quality of goods and services that they consume, to education and information, to protection of their health, to safeguarding of their economic interests as well as to compensation for damages.
2. Advertising shall be regulated by law and all forms of hidden, indirect and misleading advertising shall be prohibited.
3. Consumer associations and co-operatives shall have the right, within the terms of the law, to State support, to be heard on issues concerning consumer protection and their legitimacy to legally defend the interests of their members shall be recognised.

## Article 93

### **(Physical Culture and Sport)**

1. Citizens shall have the right to physical education and to sport.
2. The State shall promote, through educational and sporting institutions, the practice and the dissemination of physical education and sport.

## Article 94

### **(Freedom of Cultural Creation)**

1. All citizens shall have the right to freedom of scientific, technical, literary and artistic creation.
2. The State shall protect rights pertaining to intellectual property, including copyrights, and shall promote the practice and dissemination of literature and arts.

## Article 95

### **(Right to Assistance in Disability and in Old Age)**

1. All citizens shall have the right to assistance in the case of disability and in old age.
2. The State shall promote and encourage the creation of conditions for the fulfilment of this right.

## TITLE IV

### **ECONOMIC, SOCIAL, FINANCIAL AND FISCAL ORGANISATION**

#### CHAPTER I

##### **General Principles**

## Article 96

### **(Economic Policy)**

1. The State's economic policy shall be oriented towards building the fundamental bases for development, improving the people's living conditions, strengthening the sovereignty of State, and consolidating the national unity, through the participation of citizens and the efficient use of human and material resources.
2. Without prejudice to balanced development, the State shall guarantee the distribution of national wealth, recognising and valorising the role of productive zones.

## Article 97

### **(Fundamental Principles)**

The economic and social organisation of the Republic of Mozambique shall aim to satisfy the basic needs of the people and to promote the social wellbeing, and shall be based on the following fundamental principles:

- a) on the value of labour;
- b) on market forces;
- c) on the initiatives of economic operators;
- d) on the co-existence of the public sector, the private sector and the social and co-operative sector;
- e) on the public ownership of natural resources and of the means of production, in accordance with the collective interest;
- f) on the protection of the co-operative and social sector;
- g) on the action of the State as the regulator and promoter of economic and social growth and development.

## Article 98

### **(State Property and Public Domain)**

- 1. The natural resources in the soil and the subsoil, in inland waters, in the territorial sea, on the continental shelf and in the exclusive economic zone shall be the property of the State.
- 2. The public domain of the State shall comprise:
  - a) the maritime zone;
  - b) the airspace;
  - c) archaeological heritage;
  - d) nature conservation zones;
  - e) hydraulic potential;
  - f) energy potential;
  - g) roads and railways;
  - h) mineral deposits;
  - i) other property classified as such by law.

3. The law shall regulate the legal regime of property in the public domain, as well as its management and conservation, and shall distinguish between the ones under the public domain of the State, the public domain of local authorities and the public domain of communities, with due respect for the principles of imprescriptibility and impossibility to levy its execution.

## Article 99

### **(Sectors of Ownership of the Means of Production)**

1. The national economy shall guarantee the coexistence of three sectors of ownership of the means of production.
2. The public sector consists of the means of production whose ownership and management belongs to the State or other public entities.
3. The private sector consists of the means of production whose ownership and management belongs to private individual or corporate persons, without prejudice to the following paragraph.
4. The co-operative and social sector comprises, specifically:
  - a) community means of production, owned and managed by local communities;
  - b) means of production destined to collective exploitation by workers;
  - c) means of production owned and managed by collective, not-for-profit corporate persons, whose main objective is social solidarity, specifically those of a mutual nature.

## Article 100

**(Taxes)**

Taxes shall be established and modified by law, according to the criteria of social justice.

## CHAPTER II

**ECONOMIC ORGANISATION**

## Article 101

**(Co-ordination of Economic Activity)**

1. The State shall promote, co-ordinate and supervise the economic activity, acting directly or indirectly to bring solutions to basic problems affecting the people and to reduce social and regional inequalities.
2. State investment shall play a catalysing role in the promotion of a balanced development.

## Article 102

**(Natural Resources)**

The State shall promote knowledge, inventory and valorisation of natural resources, and shall determine the conditions under which they may be used and developed subject to the safeguard of national interests.

## Article 103

**(Agriculture)**

1. In the Republic of Mozambique, agriculture shall be the basis of national development.
2. The State shall guarantee and promote rural development in order to meet the growing and diverse needs of the people, and for the country's economic and social progress.

## Article 104

**(Industry)**

In the Republic of Mozambique, industry shall be the driving force of the national economy.

## Article 105

**(Family Sector)**

1. The family sector shall play a fundamental role in meeting the basic needs of the people.
2. The State shall support and provide incentives for the production in the family sector and shall encourage the farmers as well as individual workers to organise themselves in more advanced forms of production.

## Article 106

**(Small Scale Production)**

The State shall recognise the contribution made by small scale production to the national economy and shall support its development as a way to valorise the capacity and creativity of the people.

## Article 107

**(National Entrepreneurship)**

1. The State shall promote and support the active participation of the national entrepreneurial sector in the development and consolidation of the country's economy.
2. The State shall create incentives aimed at achieving the growth of the national entrepreneurial sector throughout the country, particularly in rural zones.

## Article 108

**(Foreign Investment)**

1. The State shall guarantee foreign investment, which shall operate within the framework of State economic policy.
2. Foreign enterprises shall be permitted in all of the national territory and in all economic sectors, except for those that are reserved exclusively for the ownership or development by the State.

## Article 109

**(Land)**

1. Land ownership shall be vested in the State.
2. Land shall not be sold or otherwise disposed of, nor may it be mortgaged or subject to public auction.
3. As a universal means for wealth creation and of social welfare, land use and tenure shall be a right of all Mozambican people.

## Article 110

### **(Land use and Tenure)**

1. The State shall determine the conditions for land use and tenure.
2. The right of land use and tenure shall be granted to individual or corporate persons, taking into account its social or economic purpose.

## Article 111

### **(Rights Acquired Through Inheritance or Land Occupation)**

In granting titles for land use and tenure, the State shall recognise and protect acquired rights through inheritance or by occupation, unless there is a legal reserve or the land has been lawfully allocated to another person or entity.

## CHAPTER III

### **SOCIAL ORGANISATION**

## Article 112

### **(Labour)**

1. Labour is the driving force of development and shall be respected and protected.
2. The State shall promote the fair distribution of labour income.
3. The State defends the principle of equal pay for equal work.

## Article 113

### **(Education)**

1. The Republic of Mozambique shall promote an educational strategy that aims to achieve national unity, the eradication of illiteracy,

mastering of science and technology, as well as training citizens for moral and civic values.

2. The State shall organise and develop training through a national system of education.
3. Public education shall not pertain to any religious denomination.
4. Education provided by collective and other private entities shall be administered in accordance with the law and shall be subject to State control.
5. The State shall not plan education and culture in accordance with any specific aesthetic, political, ideological or religious guidelines.

## Article 114

### **(Higher Education)**

1. Access to public institutions of higher education shall guarantee equal and equitable opportunities and the democratisation of education, taking into account the needs in terms of qualified staff and the uplifting of the educational and scientific levels in the country.
2. The public institutions of higher education shall be corporate persons governed by public law, which have legal personality and enjoy scientific, pedagogic, financial and administrative autonomy, without prejudice to the appropriate evaluation of education quality, in accordance with the law.
3. The State shall recognise and supervise private and co-operative education in accordance with the law.

## Article 115

### **(Culture)**

1. The State shall promote the development of national culture and identity and shall guarantee the freedom of expression of the traditions and values of the Mozambican society.

2. The State shall promote the dissemination of Mozambican culture and shall take actions to enable the Mozambican people to benefit from the cultural achievements of other peoples.

## Article 116

### **(Health)**

1. Medical and health care for citizens shall be organised through a national health system, which shall benefit all the Mozambican people.
2. In order to achieve the objectives set out by the national health system, the law shall establish the modalities for the exercise of medical and health care activities.
3. The State shall promote the participation of the citizens and institutions in uplifting the community's health levels.
4. The State shall promote the extension of medical and health care and the equal access of all citizens to the enjoyment of this right.
5. The State shall be responsible for promoting, disciplining and controlling the production, the sale and the use of chemical, biological and pharmaceutical products and other forms of treatment and diagnosis.
6. The medical and health care activities run by collective and private entities shall be carried out in accordance with the law and be subject to the supervision of the State.

## Article 117

### **(Environment and Quality of Life)**

1. The State shall promote initiatives to guarantee the ecological balance and the conservation and preservation of the environment, with a view to improving the quality of life of its citizens.

2. With a view to guarantee the right to the environment within the framework of sustainable development, the State shall adopt policies aimed at:
  - a) preventing and controlling pollution and erosion;
  - b) integrating environmental objectives in sectoral policies;
  - c) promoting the integration of environmental values into educational policies and programmes;
  - d) guaranteeing the rational utilisation of natural resources and the safeguarding of their capacity to regenerate, ecological stability and the rights of future generations;
  - e) promoting territorial ordinance with a view to ensure the correct localisation of activities and to a balanced socio-economic development.

## Article 118

### **(Traditional Authority)**

1. The State shall recognise and respect traditional authority legitimised by the populations and according to customary law.
2. The State shall define the relationship between traditional authority and other institutions and the framework for the traditional authority's participation in the economic, social and cultural affairs of the country, in accordance with the law.

## Article 119

### **(Family)**

1. The family is the fundamental unit and the basis of entire society.
2. The State shall, in accordance with the law, recognise and protect marriage as the institution that secures the pursuit of family objectives.

3. In the context of the development of social relations based on respect for human dignity, the State shall guarantee the principle that marriage is based on free consent.
4. The law shall establish forms for the valorisation of traditional and religious marriage and determine the registration requirements and effects thereof.

## Article 120

### **(Maternity and Paternity)**

1. Maternity and paternity shall be afforded dignity and protection.
2. The family shall be responsible for the children's harmonious growth, and shall educate the new generations within moral, ethical and social values.
3. The family and the State shall ensure the education of children, teaching them the values of national unity, love for the motherland, equality among men and women, respect and social solidarity.
4. Fathers and mothers shall support children born in or outside marriage.

## Article 121

### **(Childhood)**

1. All children shall have the right to protection from the family, the society and the State, having in mind their full development.
2. Children, in particular orphans, disabled and abandoned children, shall be protected by the family, the society and the State against all forms of discrimination, ill treatment and the abusive use of authority within the family and in other institutions.
3. Children shall not be discriminated against, particularly, on the grounds of their birth, nor shall they be subjected to ill treatment.

4. Child labour shall be prohibited, whether the children are within the compulsory school age or any other age.

## Article 122

### **(Women)**

1. The State shall promote, support and valorise women's development, and shall encourage their growing role in society, in all spheres of the country's political, economic, social and cultural activities.
2. The State shall recognise and valorise the participation of women in the national liberation struggle and in the defence of sovereignty and democracy.

## Article 123

### **(Youth)**

1. The youth honourably upholding the patriotic traditions of the Mozambican people, played a decisive role in the national liberation struggle and the struggle for democracy, and they constitute the renewing force of the society.
2. The State policy aims for particularly ensuring the harmonious development of the young people's character, the promotion of the love of free creativity, their sense of service to the community, and providing appropriate conditions for their integration into active life.
3. The State shall promote, support and encourage the youths' initiatives in consolidating national unity, in the reconstruction, the development and the defence of the country.

4. The State and society shall stimulate and support the creation of youth organisations for the pursuit of cultural, artistic, recreational, sporting and educational objectives.
5. The State, in co-operation with associations representing parents and guardians, private institutions and youth organisations, shall adopt a national youth policy geared to promote and support professional training of young people, access to first jobs and their free intellectual and physical development.

## Article 124

### **(Elderly)**

1. The elderly shall have the right to special protection by their family, the society and the State, particularly through the creation of housing conditions, in the family and community conviviality, and healthcare in public and private institutions, which prevent their marginalisation.
2. The State shall promote a policy for the elderly that integrates actions of economic, social and cultural nature, with a view to creating opportunities for personal achievement through their involvement in the life of the community.

## Article 125

### **(Disabled Persons)**

1. The disabled persons shall have a right to special protection by the family, the society and the State.
2. The State shall promote the creation of conditions for learning and the development of sign language.
3. The State shall promote the creation of the necessary conditions for the economic and social integration of disabled persons.

4. The State shall promote, in co-operation with associations of disabled persons and private entities, a policy that will guarantee:
  - a) the rehabilitation and integration of the disabled;
  - b) the creation of appropriate conditions to prevent their social isolation and marginalisation;
  - c) priority treatment of disabled citizens by public and private services;
  - d) easy access to public places.
5. The State shall encourage the establishment of associations of disabled persons.

## CHAPTER VI

### **FINANCIAL AND TAX SYSTEM**

#### Article 126

##### **(Financial System)**

The financial system shall be organised in a way to guarantee the formation, harnessing and safety of savings, as well as the implementation of financial means necessary for economic and social development of the country.

#### Article 127

##### **(Tax System)**

1. The tax system shall be structured in order to meet the financial needs of the State and other public entities, achieve the objectives of the State's economic policy, and guarantee the fair distribution of income and wealth.
2. Taxes shall be established and modified by law, which shall stipulate the tax incidence, the rates, the fiscal benefits and the taxpayers guarantees.

3. No person shall be forced to pay taxes that have not been established in accordance with the provisions of the Constitution, and which are not assessed and collected in terms of the law.
4. The bases of tax incidence shall not be widened and tax rates shall not be increased, during the same financial year.
5. The tax law shall not have retroactive effect, unless its content is more favourable to the taxpayer.

## Article 128

### **(Economic and Social Plan)**

1. The purpose of the Economic and Social Plan is to guide economic and social development towards a sustainable growth, to reduce regional imbalances and to progressively eliminate economic and social differences between cities and the countryside.
2. The Economic and Social Plan shall be financially expressed in the State Budget.
3. The Economic and Social Plan bill shall be submitted before the Assembly of the Republic, together with reports on major global and sectoral options, including the respective rationale.

## Article 129

### **(Drafting and Execution of the Economic and Social Plan)**

1. The Government shall draft the Economic and Social Plan on the basis of its five-year programme.
2. The draft Economic and Social Plan shall be submitted before the Assembly of the Republic and shall contain a forecast of the macroeconomic aggregates and the actions to be taken for the

persecution of the sectoral development goals, and it shall be accompanied by implementation reports to substantiate it.

3. The drafting and implementation of the Economic and Social Plan shall be decentralised on a provincial and sectoral basis.

## Article 130

### **(State Budget)**

1. The State budget shall be unitary, shall specify revenue and expenditure, always respecting the rules on the annual nature of the budget and publicity, in accordance with the law.
2. The State budget may be organised in multi-annual programmes or projects, and in that case, the budget shall present the expenditure in respect of the particular year to which it refers.
3. The State Budget bill shall be drafted by the Government and submitted to the Assembly of the Republic, and it shall contain information to substantiate revenue forecasts, the limits of expenditure, deficit financing, and all the information that substantiates budgetary policy.
4. The law shall determine the rules for execution of the budget, and shall establish the criteria according to which the budget may be modified, the execution period, as well as the procedures to be followed when the deadlines for its presentation or voting thereon cannot be met.

## Article 131

### **(Supervision)**

The execution of the State budget shall be submitted to the control of the Administrative Court and the Assembly of the Republic, which shall consider and deliberate on the State's General Account having in consideration the opinion of the Administrative Court.

## Article 132

**(Central Bank)**

1. The Bank of Mozambique is the Central Bank of the Republic of Mozambique.
2. The operations of the Bank of Mozambique shall be governed by specific legislation and by international rules that bind the Republic of Mozambique and are applicable to it.

## TITLE V

**ORGANISATION OF POLITICAL POWER**

## SINGLE CHAPTER

**GENERAL PRINCIPLES**

## Article 133

**(Sovereign Bodies)**

The sovereign bodies are the President of the Republic, the Assembly of the Republic, the Government, the Tribunals and the Constitutional Council.

## Article 134

**(Separation and Interdependence)**

The establishment of sovereign bodies shall be based on the principles of separation and interdependence of powers enshrined in the Constitution and shall owe obedience to the Constitution and the laws.

## Article 135

**(General Principles of the Electoral System)**

1. Universal suffrage, direct, equal, secret, personal and periodic shall constitute the general rule for the appointment of the President of the Republic, members of the Assembly of the Republic, members of provincial assemblies, governors of Provinces, district assemblies, District administrators, members of municipal assemblies and presidents of municipal councils.
2. Results of elections shall be counted according to the system of proportional representation.
3. Voter registration and electoral acts shall be supervised by the National Elections Commission, an independent and impartial body, the composition, organisation, operation and powers of which shall be established by law.
4. The electoral procedures shall be regulated by law.

## Article 136

**(Referendum)**

1. Citizens who have been registered as voters within the national territory, and those living abroad who have been regularly registered as voters, may be called to take part in referendum on major national issues.
2. The decision to call a referendum shall be taken by the President of the Republic upon the recommendation of the Assembly of the Republic, approved by an absolute majority of its members and on the initiative of at least one third of the members of the Assembly of the Republic.
3. The following matters may not be the subject of referendum:
  - a) the amendments to the Constitution, except for those in paragraph 1 of article 300;

- b) the matters referred to in paragraph 2 of article 178.
- 4. If the matters referred to in paragraph 2 of article 178 are within the scope of an international convention, they may be submitted to a referendum, except where they are related to peace and the rectification of borders.
- 5. No referendum shall be called or held during the period between the calling and the holding of a general election for sovereign bodies .
- 6. A referendum shall be considered valid and binding only where at least half of the registered voters have voted in it.
- 7. In addition to the relevant provisions of the electoral law, in force at the time of the referendum, specific legislation shall establish the conditions for setting up and for holding a referendum.

## Article 137

### **(Incompatibility)**

- 1. The offices of President of the Republic, President of the Assembly of the Republic, Prime Minister, President of the Supreme Court, President of the Constitutional Council, President of the Administrative Court, Attorney-General of the Republic, Ombudsman, Vice President of the Supreme Court, Deputy Attorney-General of the Republic, Member of the Assembly of the Republic, Deputy-Minister, Secretary of State, Secretary of State in Province, Governor of Province, Member of the Provincial Assembly, District Administrator, Member of the District Assembly, Municipality Council President, Member of the Municipal Assembly and Military Personnel in active service shall be mutually incompatible.
- 2. The position of member of Government shall similarly be incompatible with the offices referred to in paragraph 1 of the

present article, with the exception of those of the President of the Republic and the Prime Minister.

3. The law shall define other incompatibilities, including incompatibilities between public offices and private duties.

## Article 138

### **(Central Bodies)**

The State's central bodies are powers of sovereignty, all governmental bodies as a whole and such institutions are responsible for guaranteeing the prevalence of national interest and the implementation of the State's unitary policy.

## Article 139

### **(Powers of Central Bodies)**

1. Central bodies shall, in general, have attributions related to the exercise of sovereignty, to the regulation of matters under the law, and to the definition of national policies.
2. The powers of central bodies shall be the following:
  - a) the functions of sovereignty;
  - b) the regulation of matters under the law;
  - c) the definition of national policies;
  - d) the implementation of the unitary policy of the State;
  - e) the representation of the State at provincial, district and municipal level;
  - f) the definition and organisation of the territory;
  - g) the national defence;
  - h) the public security and order;
  - i) the monitoring of borders;
  - j) the issuance of currency;
  - k) the diplomatic relations;
  - l) the mineral resources and energy;

- m) natural resources located in the soil and subsoil, in inland waters, in the territorial sea, area adjacent to the territorial sea, on the continental shelf and in the exclusive economic zone;
- n) creation and alteration of taxes.

## Article 140

### **(Heads and Agents of Public Bodies)**

1. Central bodies shall perform their duties directly, or through appointed heads or nominated agents of the administration, who shall supervise central activities within a particular territorial area.
2. The law shall determine the form, organisation and powers within the scope of Public Administration.

## Article 141

### **(Secretary of State in the Province)**

1. At provincial level the Central Government shall be represented by the Secretary of State in the Province.
2. The Secretary of State in the Province shall be appointed and vested by the President of the Republic.
3. The Secretary of State in the Province shall ensure the performance of exclusive and State sovereign functions, under the terms of the law.
4. The Secretary of State in the Province shall oversee and supervise the Government representation services at the Province and districts.
5. The organisation, composition, functioning and powers of the State's representation services at the Province and the District levels shall be defined by law.

## Article 142

**(Normative Acts)**

1. The legislative acts shall consist of laws and decree-laws.
2. The acts of the Assembly of the Republic shall take the form of laws, motions and resolutions.
3. The decree-laws shall be legislative acts approved by the Council of Ministers pursuant to an authorisation from the Assembly of the Republic.
4. The regulatory acts of the Government shall take the form of decrees, whether they are made under the authority of a regulatory law or are made as autonomous regulations.
5. The acts of the Governor of the Bank of Mozambique, in the exercise of his powers, shall take the form of notices.

## Article 143

**(Publicity)**

1. The following shall be published in the *Boletim da República (Official Gazette)* under penalty of having no legal effect:
  - a) the laws, motions and resolutions of the Assembly of the Republic;
  - b) the decrees of the President of the Republic;
  - c) the decree-laws, decrees, resolutions and other legal instruments issued by the Government;
  - d) the decisions of the Supreme Court, the judgements of the Constitutional Council, as well as all decisions of other courts to which the law attributes general binding force;
  - e) the judgements on the results of elections and national referendum;
  - f) the resolutions ratifying international treaties and agreements;
  - g) notices issued by the Governor of the Bank of Mozambique.

2. The law shall define the publicity requirements applicable to other public legal instruments.

## Article 144

### **(Representation of Central Bodies)**

The State central bodies shall ensure that they are represented at various territorial levels.

## TITLE VI

### **PRESIDENT OF THE REPUBLIC**

#### CHAPTER I

#### **STATUS AND APPOINTMENT**

## Article 145

### **(Definition)**

1. The President of the Republic shall be the Head of State, embodying national unity, representing the Nation at national and international levels, and overseeing the correct functioning of the State bodies.
2. The Head of State shall be the guarantor of the Constitution.
3. The President of the Republic shall be the Head of Government.
4. The President of the Republic shall be the Commander-in-Chief of the Defence and Security Forces.

## Article 146

**(Eligibility)**

1. The President of the Republic shall be elected through universal, direct, equal and periodic suffrage, and by personal and secret ballot.
2. All Mozambican citizens may be candidates for the office of President of the Republic, provided that they meet all of the following conditions:
  - a) that they possess nationality by origin and do not hold any other nationality;
  - b) that they are at least thirty-five years of age;
  - c) that they enjoy in full their civil and political rights;
  - d) that they have been proposed by at least ten thousand voters.
3. The term of the office of the President of the Republic shall be five years.
4. The President of the Republic may be re-elected only once.
5. A President of the Republic who has been elected on two consecutive occasions may be a candidate for further presidential elections only five years after the end of his last term of office.

## Article 147

**(Election)**

1. The candidate who obtains more than half of the votes cast shall be elected President of the Republic.
2. If none of the candidates obtains an absolute majority, there shall be a second round between the two candidates receiving the most votes.

## Article 148

**(Incompatibility)**

The President of the Republic may not, except where the Constitution expressly provides otherwise, perform any other public function, and in no event may he perform any private functions.

## Article 149

**(Investiture and Oath)**

1. The President of the Republic shall be sworn into office by the President of the Constitutional Council in a public ceremony and before the members of the Assembly of the Republic and other representatives of sovereign bodies.
2. During the swearing in ceremony, the President of the Republic shall take the following oath:

*“I do swear by my honour that I will respect and ensure respect to the Constitution, perform my office of President of the Republic of Mozambique, dedicate all my efforts to the defence, promotion and consolidation of national unity, human rights, democracy and of the well-being of the Mozambican people, and dispense justice for all citizens”.*

## Article 150

**(Impediment and Absence)**

1. In the event of impediment or absence of the President of the Republic from the country, he or she shall be substituted by the President of the Assembly of the Republic or, in his or her absence, by the substitute of the later.

2. The simultaneous absence from the country of the Head of State and his or her constitutional substitute shall be prohibited.
3. The Assembly of the Republic, the Constitutional Council and the Government shall be notified immediately of any impediment or absence of the President of the Republic.

## Article 151

### **(Interim Substitute and Incompatibilities)**

1. The President of the Assembly of the Republic shall also assume the functions of the Head of State on an interim basis in the following circumstances:
  - a) death or permanent disability, certified by a medical board;
  - b) resignation, notified to the Assembly of the Republic;
  - c) suspension or dismissal as a result of an indictment or conviction by the Supreme Court.
2. The circumstances referred to in the preceding paragraph shall result in the holding of new presidential elections.
3. In case the President of the Republic resigns from office, he or she may not run as a candidate for a new term of office for the next ten years.
4. While the President of the Assembly of the Republic is acting as interim President of the Republic, his or her functions as a member of the Assembly of the Republic shall be suspended automatically.

## Article 152

### **(Criminal Responsibility)**

1. For crimes perpetrated in the performance of his functions, the President of the Republic shall be tried before the Supreme Court.

2. For crimes perpetrated outside the performance of his functions, the President of the Republic shall be tried before the ordinary courts, at the end of his term of office.
3. The Assembly of the Republic shall have the duty to request that the Attorney General of the Republic institute criminal proceedings against the President of the Republic, upon the recommendation of at least one third and approved by a majority of two thirds of the members of the Assembly of the Republic.
4. The President of the Republic shall be suspended from his duties from the date of definitive indictment or an equivalent act has been passed, and his conviction shall result in his discharge from office.
5. The Supreme Court, sitting in plenary session, shall deliver its judgement within a maximum period of sixty days.
6. In the event of a conviction, the President of the Republic shall not be able to stand as a candidate for that office again, nor may he hold any position in an sovereign bodies or a local authority.

## Article 153

### **(Preventive Detention)**

In no circumstances shall the President of the Republic in office be subject to preventive detention.

## Article 154

### **(Election in the Event of Vacancy of Office)**

1. The election of the new President of the Republic due to death, permanent disability, resignation or discharge, shall take place within the following ninety days, and the interim President of the Republic shall be barred from standing as a candidate.
2. An election for the office of President of the Republic shall not be held if the vacancy occurs during the three hundred and sixty-five days

preceding the end of the term of office, in which case the interim President of the Republic shall hold office until the next elections.

## Article 155

### **(Disability)**

1. The permanent disability of the President of the Republic shall be certified by a medical board, as defined by the law.
2. The permanent disability of the President of the Republic shall be declared by the Constitutional Council.
3. The Constitutional Council shall certify the death and the removal from office of the President of the Republic.

## Article 156

### **(Interim Period Regime)**

1. During the period in which the office of President of the Republic is vacant, the Constitution may not be altered.
2. The interim President of the Republic shall guarantee the functioning of the State bodies and of all other institutions, and shall not exercise the powers referred to in paragraphs (c), (e), (f), (g), (h) (k) and (l) of article 158, paragraphs 1(b) and 1(c) of article 159, paragraph 2(e) of article 160, and in paragraph c) of article 161.

## Article 157

### **(Form of Acts)**

The normative acts of the President of the Republic shall take the form of presidential decrees, and the other decisions shall take the form of dispatch, and they shall be published in the Official Gazette (*Boletim da República*).

## CHAPTER II

## POWERS

### Article 158

#### **(General powers)**

In the performance of his functions, the Head of State shall have the powers to:

- a) address the nation through messages and communications;
- b) annually inform the Assembly of the Republic on the general state of the Nation;
- c) decide, pursuant to article 136, to call a referendum on issues of major national interest;
- d) call a general election;
- e) declare the dissolution of the Assembly of the Republic pursuant to article 187;
- f) dismiss all other members of Government when its programme has been rejected by the Assembly of the Republic for the second time;
- g) appoint the President of the Supreme Court, the President of the Constitutional Council, the President of the Administrative Court and the Vice President of the Supreme Court;
- h) appoint, exonerate and dismiss the Attorney General of the Republic and the Deputy Attorney General of the Republic;
- i) confer powers to the Governor of the Province;
- j) dismiss the Governor of the Province and the District Administrator, pursuant the terms of the Constitution;
- k) grant pardons and commute penalties;
- l) confer, within the terms of the law, honorary titles, decorations and distinctions.

## Article 159

### **(In matters of Government)**

1. In matters of Government activity, the President of the Republic shall have powers to:
  - a) convene and preside the sessions of the Council of Ministers;
  - b) appoint, exonerate and dismiss the Prime Minister;
  - c) create ministries and commissions of an inter-ministerial nature.
2. The President of the Republic shall also have powers to appoint, exonerate and dismiss:
  - a) the Ministers and Deputy-Ministers;
  - b) the Vice-Chancellors and Deputy Vice-Chancellors of State universities, upon recommendation of the respective management boards, in accordance with the law;
  - c) the Governor and Vice-Governor of the Bank of Mozambique;
  - d) the Secretaries of State; and
  - e) the Secretary of the State in the Province.

## Article 160

### **(In Matters of Defence and Public Order)**

In matters of national defence and of public order, the President of the Republic shall have powers to:

- a) declare war and its cessation, the state of siege, or of emergency;
- b) enter into treaties;
- c) decree a general or partial mobilisation;
- d) preside over the National Council of Defence and Security;

- e) appoint, exonerate and dismiss the Chief and Deputy Chief of the General Staff, the General Commander and Deputy General Commander of the Police, the Branch Commanders of the Armed Forces of Mozambique, and other officers of the Defence and Security Forces in the terms established by law.

## Article 161

### **(In Matters of International relations)**

In matters of international relations, the President of the Republic shall be responsible for:

- a) Guiding foreign policy;
- b) entering into international treaties;
- c) appointing, exonerating and dismissing Ambassadors and diplomatic envoys of the Republic of Mozambique;
- d) receiving the credentials of ambassadors and diplomatic envoys of other countries.

## Article 162

### **(Promulgation and Veto)**

1. The President of the Republic shall have the power to assent and promulgate the laws and to order their publication in the Official Gazette (*Boletim da República*).
2. Bills shall be promulgated within thirty days after being received or upon notification of the decision delivered by the Constitutional Council stating that none of the provisions of the bill are unconstitutional.
3. The President of the Republic may, by order with reasons adduced, veto a bill, and return it to the Assembly of the Republic for re-examination.

4. Should the bill, on re-examination, be approved by a two-thirds majority of the Assembly of the Republic, the President of the Republic must assent to it, promulgate it into law and order its publication.

## CHAPTER III

### **COUNCIL OF STATE**

#### Article 163

##### **(Definition and Composition)**

1. The Council of State shall be a political body to advise the President of the Republic.
2. The Council of State shall be chaired by the President of the Republic and it shall have the following composition:
  - a) the President of the Assembly of the Republic;
  - b) the Prime Minister;
  - c) the President of the Constitutional Council;
  - d) the Ombudsman;
  - e) the former Presidents of the Republic who were not dismissed from office;
  - f) the former Presidents of the Assembly of the Republic;
  - g) seven personalities of recognised merit elected by the Assembly of the Republic, for the duration of the legislative term, on the basis of parliamentary representation;
  - h) four personalities of recognised merit appointed by the President of the Republic, for the term of his office;
  - i) the second most voted candidate for the office of President of the Republic.

## Article 164

### **(Taking Office and Status)**

1. The members of the Council of State shall be sworn-in before the President of the Republic.
2. The members ex-officio of the Council of State shall continue to perform their functions while they remain in their respective offices.
3. The members of the Council of State shall enjoy the privileges, immunities and ceremonial treatment to be established by law.

## Article 165

### **(Competencies)**

The Council of State shall be responsible, in general, to advise the President of the Republic on the performance of his functions whenever the President requests such advice, and it must, compulsorily, deliberate on:

- a) the dissolution of the Assembly of the Republic;
- b) the declaration of war, of a state of siege or a state of emergency;
- c) the holding of referendum, in the terms of paragraph c) of article 158;
- d) the calling of a general election;
- e) the dismissing of the Governor of the Province and the District Administrator by the President of the Republic.

## Article 166

### **(Functioning)**

1. The opinions of the Council of State shall be issued at a meeting convened and chaired by the President of the Republic for this

purpose, and may be made public when the action to which they refer is carried out.

2. Meetings of the Council of State shall not be public.
3. The Council of State shall establish its own bylaws.

## **TITLE VII**

### **ASSEMBLY OF THE REPUBLIC**

#### **CHAPTER I**

##### **STATUS AND ELECTION**

###### **Article 167**

###### **(Definition)**

1. The Assembly of the Republic shall be the representative assembly of all Mozambican citizens.
2. Members of the Assembly of the Republic shall represent the entire country and not only the constituency for which he or she was elected.

###### **Article 168**

###### **(Functions)**

1. The Assembly of the Republic shall be the highest legislative body in the Republic of Mozambique.
2. The Assembly of the Republic shall establish the rules that govern the functioning of the State and the economic and social affairs through laws and deliberations of a general nature.

## Article 169

### **(Election and Composition)**

1. The Assembly of the Republic shall be elected through direct, universal, equal, secret, personal and periodic suffrage.
2. The Assembly of the Republic shall consist of two hundred and fifty members.
3. Candidates for election shall be political parties, either individually or in coalitions, and their respective lists may include citizens who are not party members.

## Article 170

### **(Term of office of Members of the Assembly of the Republic)**

1. The term of office of the Members of the Assembly of the Republic shall be the same as the legislative term, except in the event of resignation or loss of mandate.
2. The suspension, substitution, resignation or loss of mandate shall be regulated by the Statute of Members of the Assembly of the Republic.

## Article 171

### **(Incompatibilities)**

1. The office of Members of the Assembly of the Republic shall be incompatible with the following offices:
  - a) member of Government;
  - b) judicial officer in office;
  - c) diplomat in active service;
  - d) military and police officers in active service;
  - e) provincial governor and district administrator;
  - f) holders of offices in local authorities.
2. The law shall establish any other incompatibilities.

## Article 172

### **(Powers of Members of the Assembly of the Republic)**

The Members of the Assembly of the Republic shall have the following powers:

- a) to exercise the right to vote;
- b) to present bills, resolutions and other decisions;
- c) to stand as candidates for offices of the Assembly of the Republic;
- d) to request and obtain from the Government or from public institutions such data and information as are required for the performance of their functions;
- e) to put questions to the Government;
- f) other powers assigned by Bylaws of the Assembly of the Republic.

## Article 173

### **(Immunities)**

1. No Member of the Assembly of the Republic may be arrested or detained, except in the event of flagrante delicto, or put on trial without the consent of the Assembly of the Republic.
2. If criminal proceedings are pending in which a Member of the Assembly of the Republic is the accused, the Members of the Assembly of the Republic shall be heard by a counsellor judge.
3. Members of the Assembly of the Republic shall enjoy a special forum and shall be tried by the Supreme Court in terms of the law.

## Article 174

### **(Non-Liability)**

1. The Members of the Assembly of the Republic may not be sued, detained or put on trial for the opinions voiced or votes cast in

exercising their functions as Members of the Assembly of the Republic.

2. The above does not apply to civil or criminal liability for libel, defamation or slander.

### Article 175

#### **(Rights and Privileges of Members of the Assembly of the Republic)**

1. Members of the Assembly of the Republic shall enjoy the following rights and other privileges:
  - a) special identification card;
  - b) free movement through public places with restricted access, when in the performance or because of their functions;
  - c) support, co-operation, protection and facilities from public or military entities of the Republic, for the purposes of the performance of their functions within the terms of the law;
  - d) remuneration and subsidies established by law.
2. Members of the Assembly of the Republic may not take part in judicial proceedings as witness or expert, unless this has been authorised by the Assembly of the Republic or by its Standing Commission.
3. Members of the Assembly of the Republic shall also enjoy the other rights and privileges established by law.

### Article 176

#### **(Duties of Members of the Assembly of the Republic)**

Members of the Assembly of the Republic shall have the following duties:

- a) to comply with the Constitution and the laws;

- b) to comply with the Statute of Members of the Assembly of the Republic;
- c) to respect the dignity of the Assembly of the Republic and of the Members of the Assembly of the Republic;
- d) to attend plenary sessions and sessions of commission of which he or she is a member;
- e) to take part in voting and in the work of the Assembly of the Republic.

## Article 177

### **(Resignation and Loss of Mandate)**

- 1. A Member of the Assembly of the Republic may resign from office the terms of the law.
- 2. Members of the Assembly of the Republic shall lose their mandate if they:
  - a) are definitively convicted of a felony that carries a prison sentence of over two years;
  - b) become a member of or take on functions in a party or coalition other than the one for which they were elected;
  - c) do not take up a seat in the Assembly of the Republic, or exceed the number of absences established in the bylaws.
- 3. Loss of mandate shall also occur in the event of any ineligibility existing at the date of the elections and discovered subsequently, as well as any form of incapacity prescribed by law.

## CHAPTER II

### **POWERS**

#### Article 178

##### **(Powers)**

1. The Assembly of the Republic shall have the responsibility to legislate on basic issues of the country's domestic and foreign policy.
2. The Assembly of the Republic shall have exercise exclusive competence to:
  - a) pass constitutional laws;
  - b) approve the delimitation of the borders of the Republic of Mozambique;
  - c) decide on territorial division;
  - d) approve the electoral law and the referendum regime;
  - e) approve and terminate treaties dealing with issues within its competence;
  - f) propose the holding of referendum on matters of national interest;
  - g) endorse the suspension of constitutional guarantees and the declaration of a state of siege or a state of emergency;
  - h) ratify the appointment of the President of the Supreme Court, the President of the Constitutional Council, the President of the Administrative Court and the Vice-President of the Supreme Court;
  - i) elect the Ombudsman;
  - j) deliberate on the Government's programme;
  - k) decide on the reports of the activities of the Council of Ministers;
  - l) decide on the major options of the Economic and Social Plan and the State Budget and the respective implementation reports;

- m) approve the State Budget;
- n) define the defence and security policy, after hearing the National Defence and Security Council;
- o) define the bases for tax policy and the tax system;
- p) authorise the Government, while defining the general conditions, to borrow or to grant loans and to carry out other credit transactions, for periods exceeding one financial year, and to establish the ceiling for guarantees that may be given by the State;
- q) define the status for holders of sovereign bodies, as well as for the provincial and municipal bodies;
- r) decide on the general basis for the organisation and functioning of Public Administration;
- s) ratify decree-laws;
- t) ratify and terminate international treaties;
- u) ratify treaties on Mozambique's participation in international organisations for defence;
- v) grant amnesties and pardon of penalties.

3. With the exception to those powers referred to in paragraph 2 of this article, the Assembly of the Republic may authorise the Government to legislate on other matters in the form of decree-laws.

4. The Assembly of the Republic shall also have powers to:

- a) elect the President, the Vice-Presidents and the Standing Commission;
- b) approve the Bylaws of the Assembly of the Republic and the Statute of Members of the Assembly of the Republic;
- c) set up Commissions of the Assembly of the Republic and regulate their operations;
- d) create national parliamentary groups.

## Article 179

### **(Laws of Legislative Authorisation)**

1. The laws of legislative authorisation shall define the purpose, intention, scope and duration of the authorisation.
2. The legislative authorisation may not be used more than once, without prejudice to cases where its implementation is broken down into parts or where it has been extended.
3. The legislative authorisation shall expire at the end of the legislative term or with the dissolution of the Assembly of the Republic.
4. The Government shall publish authorised legislative acts by the last day of the time limit stipulated in the authorising law, which shall start counting on the date of its publication.

## Article 180

### **(Decree-Laws)**

1. A decree-law passed by the Council of Ministers under the authority of a legislative authorisation shall be deemed ratified if its ratification is not demanded by a minimum of fifteen Members of the Assembly of the Republic during the session of the Assembly of the Republic held immediately after its publication.
2. The Assembly of the Republic may wholly or partially suspend the legal force of a decree-law until it has been evaluated.
3. The suspension shall expire if by the end of the session the Assembly has not decided on the matter.
4. Refusal to ratify shall result in revocation.

## Article 181

**(Form of Acts)**

The legislative acts of the Assembly of the Republic shall take the form of laws, and the other decisions shall take the form of resolutions, and they shall be published in the Official Gazette (*Boletim da República*).

## Article 182

**(Legislative Initiative)**

1. The legislative initiative shall belong to:
  - a) the Members of the Assembly of the Republic;
  - b) the parliamentary benches;
  - c) the commissions of the Assembly of the Republic;
  - d) the President of the Republic;
  - e) the Government.
2. The Members of the Assembly of the Republic and the parliamentary benches may not propose bills which, directly or indirectly, involve an increase in State's expenditure or a reduction in State's revenue, or which in any way change the financial year in progress.

## Article 183

**(Rules for Debate and Voting)**

1. Debate of legislative proposals and bills, and of proposed referendum, shall consist of a debate on the general principles and another on the details.
2. Voting shall consist of a voting on the general principles, another on the details and a final overall voting.
3. If the Assembly so decides, the texts that are approved on the general principles shall be put to vote on the details by the commissions,

without prejudice to the power of the Plenary to recall them and put the details to the vote or put them to a final Plenary vote for overall approval.

## CHAPTER III

### ORGANISATION AND FUNCTIONING

#### Article 184

##### **(Legislative Term)**

1. The legislative term shall be of five years and it shall commence with the first session of the Assembly of the Republic held after the elections and terminate with the first session of the newly elected Assembly.
2. The first session of the Assembly of the Republic shall take place within twenty days after the election results have been validated and announced.

#### Article 185

##### **(Parliamentary Sessions)**

The Assembly of the Republic shall meet in ordinary session twice a year, and in extraordinary session whenever requested by the President of the Republic, by the Standing Commission or by at least one third of the Members of the Assembly of the Republic.

#### Article 186

##### **(Quorum and Deliberations)**

1. The Assembly of the Republic may deliberate and adopt its decisions only when more than half of its members are present.

2. The decisions of the Assembly of the Republic shall be adopted by more than half of the votes of the Members of the Assembly of the Republic are present.
3. The matters relating to the status of the opposition shall be approved by a majority of two thirds of the votes of the Members of the Assembly of the Republic.

## Article 187

### **(Dissolution)**

1. The President of the Republic may dissolve the Assembly of the Republic if it rejects the Government programme, after debate.
2. The President of the Republic shall call new legislative elections, in the terms of the Constitution.

## Article 188

### **(Restrictions to Dissolution)**

1. The Assembly of the Republic may not be dissolved in the event of a state of siege or a state of emergency, during the course of such a state, or until sixty days after it has terminated.
2. A dissolution contrary to the provision of the preceding paragraph shall be of no legal effect.
3. The dissolution of the Assembly of the Republic shall not bring to an end the term of office of its Members nor the competencies and functions of the Standing Commission, which shall subsist until the first session of the new elected Assembly.
4. In the event of dissolution, the new Assembly shall begin a new legislative term, which shall endure for the remainder of the previous legislative term.

## Article 189

### **(President of the Assembly of the Republic)**

1. The Assembly of the Republic shall elect from among its members a President of the Assembly of the Republic.
2. The Head of State shall convene and chair the session at which the election of the President of the Assembly of the Republic takes place.
3. The President of the Assembly of the Republic shall be sworn into office by the President of the Constitutional Council.
4. The President of the Assembly of the Republic is accountable to the Assembly of the Republic.

## Article 190

### **(Powers of the President of the Assembly of the Republic)**

The President of the Assembly of the Republic shall have powers to:

- a) convene and chair sessions of the Assembly of the Republic and of the Standing Commission;
- b) ensure compliance with the decisions of the Assembly of the Republic;
- c) sign the laws of the Assembly of the Republic and submit them for assent and promulgation;
- d) sign and order the publication of resolutions and motions of the Assembly of the Republic;
- e) represent the Assembly of the Republic at a domestic and international level;
- f) promote institutional relations between the Assembly of the Republic and the Provincial Assemblies, in accordance with the rules set forth in their Bylaws;
- g) exercise any other powers established by the Constitution and the Bylaws;

## Article 191

### **(Vice-Presidents of the Assembly of the Republic)**

1. The Assembly of the Republic shall elect, from among its members, Vice-Presidents nominated by the parties with the greatest parliamentary representation.
2. In the case of absence or disability of the President of the Assembly of the Republic, its functions shall be exercised by one of the Vice Presidents, according to the bylaws of the Assembly of the Republic.

## Article 192

### **(Standing Commission)**

1. The Standing Commission shall be the body of the Assembly of the Republic that coordinates the activities of the plenary, its commissions and of the National Parliamentary Groups.
2. The Standing Commission of the Assembly of the Republic shall be composed of the President, the Vice-Presidents and other Members of the Assembly of the Republic elected in the terms of the law, on the recommendation of the parliamentary benches, according to their level of representation.
3. The representatives referred to in the preceding paragraphs shall have the same number of votes in the Standing Commission as that of the benches that they represent.
4. The Standing Commission of the Assembly of the Republic shall sit during the recess of the plenary sessions, and in the other cases established in the Constitution and the law.

## Article 193

### **(Permanence)**

At the end of the legislative term or in the event of dissolution, the Standing Commission of the Assembly of the Republic shall remain in office until the constitutive session of the newly elected Assembly.

## Article 194

### **(Powers)**

The Standing Commission of the Assembly of the Republic shall have competence to:

- a) exercise the powers of the Assembly of the Republic with respect to the terms of office of the Members of the Assembly of the Republic;
- b) ensure compliance with the Constitution and the laws, and monitor the activity of the Government and of the Public Administration;
- c) give its advisory opinion on the declaration of war;
- d) authorise or confirm, subject to ratification, the declaration of states of siege and states of emergency, whenever the Assembly of the Republic is not in session;
- e) conduct the relations between the Assembly of the Republic and parliaments and similar institutions of other countries;
- f) authorise the travels of the President of the Republic for State visits;
- g) establish commissions of inquiry of an urgent nature, during the recess between plenary sessions of the Assembly of the Republic;
- h) prepare and organise sessions of the Assembly of the Republic;
- i) exercise such other functions as conferred by the Bylaws of the Assembly of the Republic;
- j) conduct the work of the plenary sessions;

- k) announce the loss and resignation of mandates of Members of the Assembly of the Republic, as well as suspensions, in terms of the Constitution and the Bylaws of the Assembly of the Republic;
- l) decide on questions of interpretation of the Bylaws of the Assembly of the Republic during the recess between plenary sessions;
- m) integrate the initiatives of Members of the Assembly of the Republic, the benches or of the Government in the work of each session;
- n) support the President of the Assembly of the Republic in the administrative and financial management of the Assembly of the Republic.

## Article 195

### **(Parliamentary Benches)**

- 1. The Members of the Assembly of the Republic elected by each political party may constitute a parliamentary bench.
- 2. The constitution and organisation of a parliamentary bench shall be provided for in the Bylaws of the Assembly of the Republic.

## Article 196

### **(Powers of the Parliamentary Bench)**

- 1. The parliamentary bench shall have the following powers:
  - a) to present candidates for the office of President of the Assembly of the Republic;
  - b) to propose candidates for Vice-President of the Assembly of the Republic;
  - c) to nominate candidates for the Standing Commission of the Assembly of the Republic;

- d) to nominate candidates for the Commissions of the Assembly of the Republic;
- e) to exercise the legislative initiative;
- f) to call for debate on current and urgent issues of national interest, with the presence of the Government;
- g) to request for the formation of parliamentary commissions of inquiry;
- h) to call for a debate on urgent issues that are not scheduled;
- i) to request information from and put questions to the Government.

2. Each parliamentary bench shall be entitled to have at its disposal work facilities within the Assembly of the Republic, as well as to technical and administrative staff, in terms of the law.

#### Article 197

##### **(Government' Quinquennial Programme)**

1. At the beginning of the legislative term, the Assembly of the Republic shall evaluate the Government programme.
2. The Government may present a revised programme that takes into account the conclusions of the debate.

#### Article 198

##### **(Participation of Members of Government in the Sessions)**

1. The Prime Minister and the Ministers shall be entitled to attend the plenary sessions of the Assembly of the Republic, and shall have the right to speak, in accordance with the Bylaws.
2. At the plenary sessions of the Assembly of the Republic, the attendance of a member or members of Government that have been summoned shall be mandatory.

## TITLE VIII

### **GOVERNMENT**

#### CHAPTER I

##### **DEFINITION AND COMPOSITION**

###### Article 199

###### **(Definition)**

The Government of the Republic of Mozambique shall be the Council of Ministers.

###### Article 200

###### **(Composition)**

1. The Council of Ministers shall consist of the President of the Republic, who shall preside, the Prime Minister and the Ministers.
2. Deputy Ministers and Secretaries of State may be required to attend the meetings of the Council of Ministers.

###### Article 201

###### **(Convocation and Chairmanship)**

1. In the performance of its functions, the Council of Ministers shall observe the decisions of the President of the Republic and the deliberations of the Assembly of the Republic.
2. The Council of Ministers shall be convened and chaired by the Prime Minister, by delegation of the President of the Republic.
3. The formulation of Government policies by the Council of Ministers shall be adopted in sessions chaired by the President of the Republic.

## CHAPTER II

### POWERS AND RESPONSIBILITIES

#### Article 202

##### (**Functions**)

1. The Council of Ministers shall secure the administration of the Country, guarantee its territorial integrity, ensure public order and the security and stability of citizens, promote economic development, implement the State's social agenda, develop and consolidate legality and carry out the country's foreign policy.
2. The defence of public order shall be guaranteed by the appropriate entities operating under government control.

#### Article 203

##### (**Powers**)

1. The Council of Ministers shall particularly have the power to:
  - a) guarantee the enjoyment by citizens of their rights and freedoms;
  - b) guarantee public order and social discipline;
  - c) draft bills to be submitted to the Assembly of the Republic;
  - d) adopt decree-laws through the legislative authority of the Assembly of the Republic;
  - e) prepare the Economic and Social Plan and the State's Budget and implement them after their approval by the Assembly of the Republic;
  - f) promote and regulate the economic activity and the activity of social sectors;
  - g) prepare the signature of international treaties and sign, ratify, adhere to and terminate international agreements, in matters that are within its governmental competence;

- h) direct labour and social security policy;
- i) direct the State's sectors, particularly education and health;
- j) direct and promote housing policy.

2. The Council of Ministers shall also have power to:
  - a) guarantee the defence and consolidation of the State's public domain and State's property;
  - b) direct and co-ordinate the activities of the ministries and other offices subordinate to the Council of Ministers;
  - c) guide and direct the State's representative bodies and regulate their duties, organisation, composition, functioning and powers;
  - d) supervise, within the terms of the Constitution and the law, the provincial, district and local government bodies;
  - e) encourage and support entrepreneurial activity and the exercise of private initiative, and protect the interests of consumers and of the public in general;
  - f) promote the development of co-operatives and support household's production.
3. The Government shall have exclusive legislative initiative in respect of matters concerning its own organisation, composition and functioning.

## Article 204

### **(Powers of the Prime Minister)**

1. Without prejudice to other powers conferred upon him by the President of the Republic and by law, the Prime Minister shall assist and advise the President of the Republic in conducting the Government's business.
2. In particular, the Prime Minister shall have power to:
  - a) assist the President of the Republic in preparing the Government's Programme;

- b) advise the President of the Republic on the creation of ministries and ministerial commissions, and on the appointment of members of the Government and other governmental heads;
- c) draft the Government's work plan and present it to the President of the Republic;
- d) ensure the implementation of the decisions adopted by State bodies by members of the Government;
- e) chair the meetings of the Council of Ministers dealing with the implementation of defined policies and other decisions;
- f) co-ordinate and monitor the activities of ministries and other governmental institutions;
- g) supervise the technical and administrative operations of the Council of Ministers.

## Article 205

### **(Relationship with the Assembly of the Republic)**

- 1. In his relations with the Assembly of the Republic, the Prime Minister shall have power to:
  - a) present to the Assembly of the Republic the Government's programme, the draft Economic and Social Plan and the draft of the State's Budget;
  - b) present the Government's implementation reports;
  - c) formulate the Government's positions to the Assembly of the Republic.
- 2. In the exercise of these functions, the Prime Minister shall be assisted by members of the Council of Ministers, whom he shall designate.

## Article 206

### **(Responsibility and Powers of the Council of Ministers)**

The Council of Ministers shall be accountable to the President of the Republic and to the Assembly of the Republic for the implementation of domestic and foreign policy and, shall submit its report of activities to them within the terms of the law.

## Article 207

### **(Political Responsibility of the Members of the Government)**

The members of the Council of Ministers shall be accountable to the President of the Republic and to the Prime Minister for the enforcement of the decisions of the Council of Ministers in their areas of competence.

## Article 208

### **(Governmental Solidarity)**

The members of the Government shall be bound by the Government Programme and by the decisions of the Council of Ministers.

## Article 209

### **(Forms of Acts)**

1. Normative acts of the Council of Ministers shall take the form of decree-laws and decrees.
2. The decree-laws and decrees, referred to in the preceding paragraph, shall indicate the law pursuant to which they were adopted.

3. The President of the Republic shall sign and order the publication of decree-laws, and the Prime Minister shall sign and order the publication of other decrees of the Government.
4. All other Government's acts shall take the form of resolutions.

## Article 210

### **(Immunities)**

1. No member of Government may be arrested or held in custody without the authorisation of the President of the Republic, except in the case of flagrante delicto and for a felony that carries a long-term imprisonment penalty.
2. In the event that criminal proceedings are brought against a member of Government, and the member has been definitely charged, the President of the Republic shall decide whether or not the member should be suspended for the purposes of continuing with the proceedings, considering that the decision of suspension shall be mandatory in case the crime in question falls under the type referred to in the preceding paragraph.

## **TITLE IX**

## **COURTS**

### **CHAPTER I**

### **GENERAL PRINCIPLES**

## Article 211

### **(Jurisdictional Function)**

1. It shall be the function of the courts to guarantee and strengthen the legality as an instrument of legal stability, to guarantee the respect for the

laws, safeguard the rights and freedoms of citizens, as well as the legal interests of other bodies and entities that have legal existence.

2. The courts shall punish violations of the legal order and shall judge the cases in accordance with the law.

3. The law may establish institutional and procedural mechanisms for coordination between courts and other authorities dealing with the settlement of interests and the resolution of disputes.

## Article 212

### **(Educational Function)**

The courts shall educate citizens and the public administration in the voluntary and conscientious compliance with laws, thereby establishing a just and harmonious social coexistence.

## Article 213

### **(Unconstitutionality)**

The courts shall not apply laws or principles that are contrary to the Constitution in matters brought before them for judgement.

## Article 214

### **(Court Decisions)**

Court decisions shall be binding on all citizens and other legal persons, and these decisions shall prevail over the decisions of any other authorities.

## Article 215

### **(Participation of Elected Judges)**

1. Elected judges may take part in trials.
2. Elected judges shall only take part in first instance judgements and in decisions on the facts.
3. The participation of elected judges shall be mandatory in cases foreseen in the procedural law, or when the trial judge so decides, when the State Prosecution Office recommends it or when the parties request it.
4. The law shall establish the manner in which the magistrates referred to in this article are elected and participate, as well as the duration of their terms.

## CHAPTER II

### **STATUS OF JUDGES**

## Article 216

### **(Independence of the Judges)**

1. In the exercise of their functions, judges shall be independent and shall only owe obedience to the law.
2. The Judges shall have guarantees of impartiality and unaccountability.
3. The Judges shall be irremovable, as they cannot be transferred, suspended, retired or dismissed, except in the cases provided for by the law.

## Article 217

**(Liability)**

1. Judges may be held liable in civil, criminal and disciplinary proceedings for acts committed in the discharge of their duties only in cases specially provided for by the law.
2. The removal of a professional judge from the judicial function may only take place under legally established terms.

Article 218  
**(Incompatibilities)**

Judges in office may not undertake any other public or private function except for activities of law lecturer, legal research or other activities of scientific, literary, artistic and technical dissemination or publication, with prior authorisation from the Superior Council of the Judicial Magistracy.

## Article 219

**(Superior Council of the Judicial Magistracy)**

Superior Council of the Judicial Magistracy shall be the body responsible for the management and discipline of the judiciary.

## Article 220

**(Composition)**

1. Superior Council of the Judicial Magistracy shall have the following composition:

- a) the President of the Supreme Court;
- b) the Vice-President of the Supreme Court;
- c) two members appointed by the President of the Republic;
- d) five members elected by the Assembly of the Republic, according to the criteria of proportional representation;
- e) seven judicial magistrates in different categories, all of whom shall be elected by their peers in the terms of the Statute of Judicial Magistrates.

2. Superior Council of the Judicial Magistracy shall be chaired by the President of the Supreme Court, who shall be substituted, in cases of absence or disability, by the Vice-President of the Supreme Court.

3. The Superior Council of the Judiciary Magistracy shall incorporate officers of justice elected by their peers for discussion and decision on matters related to professional merits and to the exercise disciplinary powers over them, in terms to be established by law.

4. The law shall regulate all other matters in respect of the powers, organisation and functioning of the Superior Council of the Judiciary Magistracy

## Article 221

### **(Powers)**

The Superior Council of the Judicial Magistracy shall have powers to:

- a) nominate, appoint, transfer, promote, exonerate and evaluate professional merit, take disciplinary action and, in general, carry out all acts of the same nature in relation to members of the judicial magistrates;

- b) evaluate professional merit and take disciplinary action in relation to judicial officers, without prejudice to the disciplinary powers assigned to judges;
- c) propose the conduct of extraordinary inspections, inquiries and investigations to the courts;
- d) give opinions and make recommendations on the policy of the judiciary, on its own initiative or at the request of the President of the Republic, the President of the Assembly of the Republic or the Government.

## CHAPTER III **ORGANISATION OF THE COURTS**

### SECTION I **TYPES OF COURTS**

#### Article 222

##### **(Types)**

1. In the Republic of Mozambique, there shall be the following courts:

- a) the Supreme Court;
- b) the Administrative Court;
- c) the judicial courts.

2. There may be administrative courts, labour courts, fiscal courts, customs courts, maritime courts, arbitration courts and community courts.

3. The powers, organisation and functioning of the courts referred to in the preceding paragraph shall be established by law, which may provide

for an intermediary court between provincial courts and the Supreme Court.

4. The judicial courts shall have common jurisdiction in civil and criminal matters and shall exercise their jurisdiction over all areas not assigned to other jurisdictional orders.

5. At first instance, there may be courts of special jurisdiction and specialised courts to judge particular matters.

6. Without prejudice to provisions pertaining to military courts, the establishment of courts with exclusive jurisdiction to judge specific categories of crimes shall not be permitted.

## Article 223

### **(Military Courts)**

During the state of war, military courts with the jurisdiction to try crimes of a strictly military nature shall be formed.

## SECTION II

## **SUPREME COURT**

## Article 224

### **(Definition)**

1. The Supreme Court shall be the highest body within the hierarchy of the courts of law.

2. The Supreme Court shall ensure the uniform application of the law within its sphere of jurisdiction, in the interests of the Mozambican people.

## Article 225

### **(Composition)**

1. The Supreme Court shall be composed of counsellor judges, in a number established by law.
2. The President of the Republic shall appoint the President and the Vice-President of the Supreme Court, after hearing the Superior Council of the Judicial Magistracy
3. The Counsellor Judges shall be appointed by the President of the Republic on recommendation of the Superior Council of the Judicial Magistracy , on the basis of their curricular evaluation, after a public call for the selection of candidates open to judges and other national citizens of reputed merit, all of whom shall hold degrees in law and be in full enjoyment of their civil and political rights.
4. At the time of their appointment, the Counsellor Judges shall be of at least thirty-five years of age and shall have at least ten years of experience at the bar or law lecturing, and all other requirements shall be determined by law.

## Article 226

### **(Functioning)**

The Supreme Court shall operate:

- a) in sections, as a Court of first and second instance;
- b) in plenary session, as a Court and of sole instance, in cases expressly provided for in the law.

## SECTION III

## **ADMINISTRATIVE COURT**

### Article 227

#### **(Definition)**

1. The Administrative Court shall be the highest body in the hierarchy of administrative, customs and fiscal courts.
2. The Administrative Court shall be competent for the control of legality concerning administrative acts and the application of regulatory norms issued by the Public Administration, as well as the monitoring of the legality concerning public expenditure and the enforcement of liability for financial infractions.

### Article 228

#### **(Composition)**

1. The Administrative Court shall be composed of Counsellor Judges, in a number established by law.
2. The President of the Republic shall appoint the President of the Administrative Court, after hearing the Superior Council of the Administrative Judicial Magistracy
3. The Counsellor Judges of the Administrative Court shall be appointed by the President of the Republic on the recommendation of the Superior Council of the Administrative Judicial Magistracy
4. At the time of their appointment, the Counsellor Judges of the Administrative Court shall be of at least thirty-five years of age and shall meet all other requirements established by law.

## Article 229

### (**Powers**)

1. The Administrative Court shall have the power to, namely:
  - a) adjudicate cases concerning to disputes arising from administrative legal relations;
  - b) adjudicate appeals lodged against decisions of State bodies and of their office holders and agents;
  - c) hear appeals lodged against judgements delivered by administrative, fiscal and customs courts.
2. The Administrative Court shall also have the power to:
  - a) issue a report and opinion on the State's General Account;
  - b) carry out prior scrutiny of the legality of, and budget cover for, acts and contracts that are subject to Administrative Court jurisdiction;
  - c) successively and concomitantly audit public funds;
  - d) audit the use of financial resources obtained abroad, namely, through loans, subsidies, guarantees and donations.

## Article 230

### (**Organisation and Functioning**)

The law shall regulate the organisation and functioning of the Administrative Court, and all other matters related to its jurisdiction.

## Article 231

**(Superior Council of the Administrative Judicial Magistracy)**

1. The Superior Council of the Administrative Judicial Magistracy shall be the body responsible for the management and discipline of the administrative, fiscal and customs judiciary.
2. The law shall regulate the organisation, composition and functioning of the Superior Council of the Administrative Judicial Magistracy .

## Article 232

**(Incompatibilities)**

Administrative Court Judges in office may not undertake any other public or private function, except for law lecturer, legal research or other activities of scientific, literary, artistic and technical dissemination or publication, with prior authorisation from the Superior Council of the Administrative Judicial Magistracy

**TITLE X  
OFFICE OF THE PUBLIC PROSECUTOR**

## Article 233

**(Definition)**

1. The Office of the Public Prosecutor shall constitute a hierarchically organised magistracy, which is subordinate to the Attorney General of the Republic.
2. In the exercise of their functions, the judicial officers and agents of the Office of the Public Prosecutor shall be subject to the criteria of legality,

objectivity, impartiality and exclusive obedience to the directives and orders provided for in the law.

3. The Office of the Public Prosecutor shall have its own statute and autonomy, within the terms of the law.

### Article 234

#### **(Nature)**

The Office of the Public Prosecutor shall comprise the respective magistracy, the Office of the Attorney General of the Republic and subordinate bodies.

### Article 235

#### **(Functions)**

The Office of the Public Prosecutor shall represent the State in courts and defend such interests as the law may determine, and it shall control the legality and time limits of detentions, conduct the preliminary investigations for criminal proceedings, shall exercise penal authority, and shall ensure the legal defence of minors, absents and incapacitated persons.

### Article 236

#### **(Office of the Attorney General of the Republic)**

1. The Office of the Attorney General of the Republic shall be the highest body of the Public Prosecutor's Office, and its organisation, composition and powers shall be defined by law.

2. The Attorney General of the Republic, assisted by the Deputy Attorney General of the Republic, shall head the Office of the Attorney General.

## Article 237

**(Superior Council for the Public Prosecution Magistracy)**

1. The Office of the Attorney General of the Republic shall comprise the Superior Council for the Public Prosecution Magistracy, which shall include members elected by the Assembly of the Republic, and members elected by magistrates of the Public Prosecution among themselves.
2. Superior Council of the Public Prosecution Magistracy shall be the body responsible for the management and discipline of the Public Prosecution Magistracy.
3. The law shall regulate the organisation, composition and functioning of the Superior Council of the Public Prosecution Magistracy.

## Article 238

**(Attorney General and Deputy Attorney General of the Republic)**

1. The Attorney General and the Deputy Attorney General of the Republic shall be appointed by the President of the Republic for a period of five years, from among persons who shall hold degrees in law and shall have at least ten years of professional experience in the judiciary or practice at the bar or lecturing law, and their terms of office may not be terminated except by:
  - a) resignation;
  - b) exoneration;
  - c) dismissal;
  - d) compulsory retirement in consequence of disciplinary or criminal proceedings;

- e) acceptance of a position or office which is incompatible with the exercise of his functions.

2. The Attorney General of the Republic shall be accountable to the Head of State.
3. The Attorney General of the Republic shall present an annual report to the Assembly of the Republic.

## Article 239

### **(Deputy Attorneys General)**

1. The Deputy Attorneys General shall represent the State Prosecution Office before the sections of the Supreme Court and the Administrative Court, and they represent the highest office in the Magistracy of the Public Prosecution.
2. The Deputy Attorneys General shall be nominated by the President of the Republic on the recommendation of the Superior Council of the Public Prosecution Magistracy, on the basis of their curricular evaluation, after a public call for the selection of candidates open to national citizens of reputed merit, who shall hold degrees in law and be in full enjoyment of their civil and political rights and who, at the time of the tender, shall be of at least thirty-five years of age and shall have at least ten years of experience in the legal profession or in lecturing law.

## TITLE XI

## CONSTITUTIONAL COUNCIL

### Article 240

#### **(Definition)**

1. The Constitutional Council is a sovereign body with special jurisdiction to administer justice in matters of a legal-constitutional nature.
2. The law shall determine the organisation, the functioning, the procedures for monitoring and review of the constitutionality, of the legality of normative acts, and all other powers of the Constitutional Council are determined by the law.

### Article 241

#### **(Composition)**

1. The Constitutional Council shall be composed of seven counsellor judges, appointed in the following manner:
  - a) one counsellor judge, who shall be the President of the Constitutional Council, appointed by the President of the Republic;
  - b) five counsellor judges nominated by the Assembly of the Republic according to principles of proportional representation;
  - c) one counsellor judge nominated by the Superior Council of the Judicial Magistracy .
2. The counsellor judges of the Constitutional Council shall be nominated for renewable terms of five years and they shall enjoy guarantees of independence, security of tenure, impartiality and unaccountability.

3. At the time of their appointment, the counsellor judges of the Constitutional Council shall be of at least thirty-five years of age and shall have at least ten years of professional experience in the judiciary or in practice at the bar or in lecturing law.

## Article 242

### **(Incompatibilities)**

The Counsellor Judges of the Constitutional Council in office may not undertake any other public or private function, except for lecturing, legal research, or other activities of scientific, literary, artistic and technical dissemination or publication, with prior authorisation from the respective body.

## Article 243

### **(Powers)**

1. The Constitutional Council shall have competence to:
  - a) review and declare the unconstitutionality of laws and the illegality of normative acts of State bodies;
  - b) settle conflicts of competence between the State's sovereign bodies;
  - c) make preventive reviews of the constitutionality of referendums;
  - d) consider and decide on the dismissal of the Governor of Province and the Administrator of District, by the President of the Republic;
  - e) consider and decide on the dissolution of the provincial, district and local assemblies, by the Council of Ministers.
2. The Constitutional Council shall also have power to:
  - a) verify the legal requirements for candidates for the office of the President of the Republic;

- b) declare the permanent incapacity of the President of the Republic;
- c) verify the death and the removal from office of the President of the Republic;
- d) consider, in last resort, the electoral complaints and appeals, validate and proclaim electoral results, in the terms of the law;
- e) decide, as a last resort, on the legality of the constitution of political parties and their coalitions, as well as consider the legality of their designations, acronyms and symbols, and order their respective extinction in the terms of the Constitution and the law;
- f) adjudicate the petitions related to elections claims and of decisions of political parties' bodies;
- g) adjudicate the petitions concerning disputes related to the term of office of the Members of the Assembly of the Republic;
- h) adjudicate the petitions concerning incompatibilities established in the Constitution and in the law.

3. The Constitutional Council shall exercise such other powers as may be assigned to it in terms of the law.

## Article 244

### **(Request for Review of Unconstitutionality)**

- 1. The Constitutional Council shall consider and declare, with general binding rule, the unconstitutionality of laws and the illegality of other normative acts of State bodies, at any time during its term.
- 2. The following may request the Constitutional Council to adjudicate on the unconstitutionality of laws, or on the illegality of normative acts of State offices:
  - a) the President of the Republic;
  - b) the President of the Assembly of the Republic;

- c) at least one third of the Members of the Assembly of the Republic;
- d) the Prime Minister;
- e) the Attorney General of the Republic;
- f) the Ombudsman;
- g) two thousand citizens.

3. The law shall establish the regime of admission of legal suits for the assessment of unconstitutionality.

## Article 245

### **(Preventive Review of Constitutionality)**

- 1. The President of the Republic may request the Constitutional Council to carry out a preventive review of the constitutionality of any legal instrument submitted for promulgation.
- 2. The preventive review of constitutionality shall be requested within the time limit established in paragraph 2 of article 162.
- 3. The time limit for promulgation shall be interrupted, once the review of constitutionality has been requested.
- 4. If the Constitutional Council rules that there is no unconstitutionality, the new time limit for the assent and promulgation shall count from the date upon which the President of the Republic takes cognisance of the decision of the Constitutional Council.
- 5. If the Constitutional Council rules that there is an unconstitutionality, the President of the Republic shall veto the bill and return it to the Assembly of the Republic.

## Article 246

### **(Appeals)**

1. All Court rulings and other decisions made on grounds of unconstitutionality must be referred to the Constitutional Council in the following cases:
  - a) in the event of a refusal to apply any rule on grounds of its unconstitutionality;
  - b) when the Attorney General of the Republic or the State Prosecution Office requests an abstract assessment of the constitutionality or legality of any rule whose application has been denied, on grounds of unconstitutionality or illegality, by judicial decision which cannot be appealed.
2. The law shall regulate the regime of admission of appeals indicated in this provision.

## Article 247

### **(Binding and Non-appealable Nature of Judgements)**

1. The judgements of the Constitutional Council shall be binding on all citizens, institutions and other legal persons, they shall not be subject to appeal and they shall prevail over all other decisions.
2. Anyone who fails to comply with the judgements referred to in the present article shall be charged with the criminal offence of contempt of court, unless a more serious crime applies.
3. The rulings of the Constitutional Council shall be published in the Official Gazette.

## TITLE XII

### **PUBLIC ADMINISTRATION, POLICE AND OMBUDSMAN**

#### **CHAPTER I** **PUBLIC ADMINISTRATION**

##### Article 248

###### **(Fundamental principles)**

1. The Public Administration shall serve the public interests and, in the conduct of their activity, shall respect the fundamental rights and freedoms of citizens.
2. The bodies of Public Administration shall owe obedience to the Constitution and the law, and shall act with respect for the principles of equality, impartiality, ethics and justice.

##### Article 249

###### **(Structure)**

1. The Public Administration shall be structured on the basis of the principle of decentralisation and de-concentration, promoting the modernisation and efficiency of its services, without prejudice to the unity of action and the executive authority of the Government.
2. The Public Administration may be organised through other collective legal persons distinct from the State Administration, with the participation of citizens.
3. The Public Administration shall promote the simplification of administrative procedures and shall make public services more accessible to citizens.

## Article 250

**(Access and status of civil servants)**

1. The access to public office and the progression in professional careers shall not be jeopardised on grounds of colour, race, sex, religion, ethnic or social origin, or political party orientations, and shall strictly obey to the criteria of the merit and ability of the applicants.
2. The law shall regulate the status of civil servants and other agents of the State, as well as the incompatibilities and the guarantees of impartiality in the exercise of public offices.

## Article 251

**(Hierarchy)**

1. In the exercise of their functions, civil servants and other agents of the State shall owe obedience to their hierarchical superiors in terms of the law.
2. The duty of obedience shall cease whenever its performance involves the commission of a criminal offence.

## Article 252

**(Rights and Guarantees of Citizens)**

1. All **citizens** shall have the right to receive information from the competent services of Public Administration, whenever they request it, on the progress of processes in which they have a direct interest, in terms of the law.

2. Interested parties shall be notified of administrative acts within the terms and the time limits established by the law, and reasons for these acts shall be given whenever they affect legally protected rights or interests of the citizens.
3. Interested citizens shall be guaranteed the right to judicial appeal against the illegality of administrative acts that endanger their rights.

## CHAPTER II

## **POLICE**

### Article 253

#### **(Definition)**

1. The function of the Police of the Republic of Mozambique, in collaboration with other State institutions, shall be to guarantee law and order, to safeguard the security of persons and property, to keep public peace and to ensure respect for the democratic rule of law and the strict observance of the fundamental rights and freedoms of citizens.
2. The Police shall be nonpartisan.
3. In the exercise of its functions, the Police shall owe obedience to the law and shall serve citizens, public and private institutions with independence and impartiality.

### Article 254

#### **(Command and Organisation)**

1. The Police of the Republic of Mozambique shall be headed by a Commander-General.

2. The law shall establish the general organisation of the Police and shall determine its respective branches, its functions, its structure and the rules regarding admission into the Police.

## CHAPTER III **OMBUDSMAN**

Article 255

### **(Definition)**

The Ombudsman is a body established to guarantee the rights of citizens and to defend the legality and justice in the performance of the Public Administration's activities.

Article 256

### **(Election)**

The Ombudsman shall be elected by the Assembly of the Republic, voting with a two-thirds majority of the Members, for a term which shall be determined by law.

Article 257

### **(Independence)**

1. The Ombudsman shall be independent and impartial in the exercise of his functions and he shall owe obedience only to the Constitution and the laws.
2. The Ombudsman shall present an annual report on his activities to the Assembly of the Republic.

## Article 258

### **(Powers)**

1. The Ombudsman shall consider the cases submitted to him, with no power to make decisions on them and shall formulate recommendations for the appropriate authorities to correct or prevent illegalities or injustices.
2. If the investigations of the Ombudsman lead to the conclusion that the Public Administration has committed serious mistakes, irregularities or violations, shall inform the Assembly of the Republic, the Attorney General of the Republic and the central or local authority, with recommendations of the pertinent remedial measures.

## Article 259

### **(Duty to Collaborate)**

The bodies and agents of the Public Administration shall be duty-bound to provide their collaboration as requested by the Ombudsman in the exercise of his functions.

## Article 260

### **(Status, Procedures and Organisation)**

The law shall determine all other aspects pertaining to the status, the procedures, and the organisational structure supporting the Ombudsman.

**TITLE XIII**  
**NATIONAL DEFENCE AND NATIONAL DEFENCE AND**  
**SECURITY COUNCIL**

**CHAPTER I**  
**NATIONAL DEFENCE**

Article 261

**(Fundamental Principles)**

The State's defence and security policy shall aim to defend the national independence, to preserve the sovereignty and the integrity of the Country, and to guarantee the normal functioning of institutions and the security of citizens against any armed aggression.

Article 262

**(Defence Forces and Security Services)**

1. The defence force and the security services shall be subordinate to national defence and security policy and shall owe fidelity to the Constitution and to the Nation.
2. The oath taken by members of the defence forces and security services of the State shall establish the duty to respect the Constitution, to protect the institutions and to serve the people.
3. The State's defence forces and security services shall be nonpartisan and shall abstain from taking positions or taking part in actions that could threaten their internal cohesion and national unity.
4. The State's defence forces and security services shall owe special obedience to the President of the Republic, in his capacity of Commander-in-Chief.

## Article 263

**(Defence of the Motherland, Military Service and Civic Service)**

1. To participate in the defence of independence, sovereignty and territorial integrity shall be the sacred duty and the honour of all Mozambican citizens.
2. Military service shall be exercised in terms of the law within units of the Mozambique's Armed Defence Forces.
3. The law shall establish a civic service to substitute or complement military service for all citizens who are not subject to military duties.
4. Exemptions from military service shall be established by law.

**CHAPTER II**  
**NATIONAL DEFENCE AND SECURITY COUNCIL**

## Article 264

**(Definition and Composition)**

1. The National Defence and Security Council shall be the State consultation body for matters pertaining to national sovereignty, territorial integrity, the defence of democratically established authority, and security.
2. The National Defence and Security Council shall be presided by the President of the Republic and the law shall determine its composition, which shall include two members appointed by the President of the Republic and five members appointed by the Assembly of the Republic.

## Article 265

### **(Powers)**

The National Defence and Security Council shall have the following powers:

- a) to pronounce on a state of war before it is declared;
- b) to pronounce on the suspension of constitutional guarantees and the declaration of a state of siege and a state of emergency;
- c) to issue an opinion on the criteria and conditions governing the use of total or partial protection zones destined to the defence and security of the national territory;
- d) to analyse and monitor the initiatives of other State bodies aimed at guaranteeing the consolidation of national independence, the strengthening of democratic political power, and the maintenance of law and order;
- e) to pronounce on overseas peace missions.

## Article 266

### **(Organisation and Functioning)**

The organisation and functioning of the National Defence and Security Council shall be established by law.

## TITLE XIV

### **DECENTRALISATION**

#### CHAPTER I

##### **(General provisions)**

###### Article 267

###### **(Objectives of Decentralisation)**

1. The decentralisation is aimed at organising the participation of citizens in the solution of their community's problems, to promote local development and the deepening and consolidation of democracy, within the framework of the unity of the Mozambican State.
2. Decentralisation is based on the initiative and capacity of the people and shall be implemented in close collaboration with organisations working for the citizens' participation.

###### Article 268

###### **(Decentralised Entities)**

1. The decentralisation includes:
  - a) decentralised local government bodies at province and district levels;
  - b) local authorities;
2. The State shall maintain its representations within the decentralised entities for the exercise of its exclusive and sovereign functions, under the terms defined by law.

## Article 269

**(Autonomy of Decentralised Bodies)**

Decentralised governments and local authorities' bodies shall enjoy administrative, financial and patrimonial autonomy in accordance with the law.

## Article 270

**(Limits of Decentralisation)**

1. The decentralisation shall respect the unitary state, national unity, sovereignty, indivisibility and inalienability of the State and is guided by the principles of the prevalence of national interest, subsidiarity and gradualism.
2. The decentralisation is also limited by the matters falling within the exclusive competence of the central bodies of the State, namely:
  - (a) the sovereign functions;
  - (b) the regulation of matters within the scope of the law;
  - (c) the definition of national policies;
  - (d) the implementation of the unitary policy of the State;
  - (e) the representation of the State at provincial, district and local level;
  - (f) the definition and organisation of the territory;
  - (g) the national defence;
  - (h) the public security and order;
  - (i) the border control;
  - (j) the issuance of currency;

- (k) the diplomatic relations;
- (l) the mineral resources and energy;
- (m) the natural resources situated on the soil and subsoil, in inland waters, the territorial sea, the contiguous zone of the territorial sea, the continental platform and the exclusive economic zone;
- (n) the creation and amendment of taxes.

## Article 271

### **(Regulatory Power)**

The bodies of decentralised government and local authorities have their own regulatory power, in accordance with the Constitution, the laws and the regulations issued by the authorities with supervisory power.

## Article 272

### **(Administrative Supervision)**

1. The provincial and district bodies of decentralised government and local authorities are subject to the administrative supervision of the State.
2. The State's supervision over provincial, district and municipal assemblies, as well as the respective executive bodies, shall consist in the verification of the legality of their administrative and financial acts.
3. Exceptionally, and in the cases expressly provided for in the law, the supervision may also include the merits of the decisions issued by the bodies under supervision.

4. The provincial, district and municipal assemblies may be dissolved by the Government as a result of activities or serious omissions provided for by law.
5. The Decree of dissolution issued by the Government shall be subject to review and deliberation by the Constitutional Council, according to the law.

### Article 273

#### **(Dismissal of the Province Governor and of the District Administrator)**

1. The President of the Republic may, after hearing the Council of State, dismiss the Province Governor and the District Administrator in the following cases:
  - a) violation of the Constitution;
  - b) performance of acts that undermine the national unity;
  - c) proven and repeated violation of budgetary and financial management rules;
  - d) conviction for crimes punishable with long-term imprisonment sentences (more than 2 years).
2. The dismissal order issued by the President of the Republic shall be subject to review by the Constitutional Council, according to the law.

## Article 274

### **(Articulation Between the State's Central Bodies and the Decentralised Entities)**

1. The sovereign bodies and other State's central institutions shall consult with district and provincial government bodies and local authorities, in respect of matters within their respective competence regarding the provinces, districts and local authorities.
2. The law shall establish the forms of articulation and cooperation between sovereign bodies, the State's central institutions and the decentralised bodies and local authorities.

## Article 275

### **(Staff of Decentralised Entities' Bodies)**

1. The provincial, district decentralised government and local authorities' bodies shall have their own staff, in accordance with the law.
2. The rules governing the State's officials and civil servants shall be applicable to the officials and civil servants assigned to provincial, district and municipal bodies.

## CHAPTER II

### **Decentralised Government**

## Article 276

### **(Powers of the Decentralised Government)**

1. The decentralised government shall carry out functions in areas not assigned to local municipalities, and which do not fall within the exclusive powers of the central bodies, namely:

- a) agriculture, fishing, livestock, forestry, food and nutritional safety;
- b) land management, to the extent to be determined by law;
- c) public transport, in the area not allocated to the local authorities;
- d) environmental management and protection;
- e) forests, wildlife and conservation areas;
- f) housing, culture and sport;
- g) health within the scope of primary care;
- h) education, within the scope of primary education, general education and basic technical professional training;
- i) tourism, folklore, handicrafts and local fairs;
- j) hotels, not exceeding the three stars' level;
- k) promotion of local investment;
- l) water and sanitation;
- m) industry and commerce;
- n) roads and bridges, which correspond to the local, provincial and district interest;
- o) prevention and combat of natural disasters;
- p) promotion of local development;
- q) land use planning;
- r) rural and community development;
- s) others to be determined by law.

2. The exercise of the powers of decentralised government must respect the government's policy outlined at central level, within the scope of the State's unitary policy.

3. The law expressly establishes the division of powers between decentralised government and the State's central bodies or its representatives.
4. The composition, organisation, functioning and the other powers of decentralised government shall be established by law.

## Article 277

### **(Provincial Bodies)**

1. The following shall be bodies of the Province:
  - a) the Provincial Assembly;
  - b) the Governor of the Province;
  - c) the Executive Council of the Province.
2. The State's Representative shall be the body of representation of the State in the Province, in the exclusive and sovereign areas of the State.

## Article 278

### **(Provincial Assembly)**

1. The Provincial Assembly shall be the body for democratic representation, elected by universal, direct, equal, secret, personal, periodic suffrage and in accordance with the principle of proportional representation, whose term of office shall be five years.
2. Political parties, coalitions of political parties and groups of voting citizens may run for the elections of the Provincial Assembly.

3. The Provincial Assembly shall have the following responsibilities:

- a) to pronounce and deliberate within the scope of the powers of the provincial government, on matters and issues of interest for the economic, social and cultural development of the Province, to the satisfaction of collective needs and the defence of the interests of the respective populations;
- b) to pursue the satisfaction of collective needs and the defence of the interests of the respective populations, as well as to monitor and inspect the activity of the other provincial bodies and services;
- c) to inspect and control the compliance with the principles and rules established in the Constitution and in the laws, as well as of the decisions of the Council of Ministers regarding the respective province;
- d) to approve the programme and the annual budget of the Provincial Executive Council, to supervise and control its compliance, in accordance with the law;
- e) to dismiss the Governor of the Province, in accordance with the law;
- j) to supervise the activities of decentralised government;
- g) to exercise its own regulatory power, in accordance with the law.

4. The composition, organisation, functioning and other powers of the Provincial Assembly shall be established by law.

## Article 279

### **(Provincial Governor)**

1. The Governor of the Province leads the Executive Council of the Province.

2. The Head of the list representing the political party, coalition of political parties or group of voter citizens who obtain the majority of votes in the elections for the Provincial Assembly shall be elected the Governor of the Province.
3. The Governor of the Province may be dismissed by the Provincial Assembly in accordance with the law.
4. The composition, organisation, functioning and other powers of the Provincial Governor shall be established by law.

## Article 280

### **(Provincial Executive Council)**

1. The Provincial Executive Council shall be the executive body for the provincial government, responsible for the implementation of the government's programme, approved by the respective assembly.
2. The composition, organisation, functioning and other powers of the Provincial Executive Council shall be established by law.

## Article 281

### **(District Bodies)**

1. The following shall be the District bodies:
  - a) the Assembly of the District;
  - b) the Administrator of the District;
  - c) the Executive Council of the District.

2. The State's Representative shall be a representative body of the State in the District, in the exclusive and sovereign areas of the State.
3. The composition, organisation, functioning and other powers of the district bodies shall be established by law.

## Article 282

### **(District Assembly)**

1. The Assembly of the District shall be the body of democratic representation, elected by universal, direct, equal, secret, personal, periodic suffrage and in accordance with the principle of proportional representation, whose term of office shall be of five years.
2. The political parties, coalitions of political parties and groups of voting citizens may run for the District Assembly elections.
3. The District Assembly shall have powers to approve the programme of the Executive Council of the District, supervise and monitor its execution.
4. The composition, organisation, functioning and other powers of the District Assembly shall be established by law.

## Article 283

### **(District Administrator)**

1. The District Administrator shall lead the Executive Council of the District.
2. The Head of the list for the political party, coalition of political parties or group of voting citizens who obtain the majority of votes in the elections for the District Assembly shall be elected the Administrator of the District.

3. The Administrator of the District may be dismissed by the Assembly of the District in accordance with the law.
4. The composition, organisation, functioning and other powers of the District Administrator shall be established by law.

## Article 284

### **(Executive Council of the District)**

1. The Executive Council of the District shall be the district governing body, responsible for the implementation of the programme, approved by the respective assembly.
2. The composition, organisation, functioning and other powers of the Executive Council of the District shall be established by law.

## Article 285

### **(Articulation between Decentralised Entities)**

The law establishes the forms of articulation between the decentralised provincial and district government bodies and the local authorities.

## CHAPTER III

**Local Authorities**

## Article 286

**(Definition)**

The local authorities are public corporate persons, endowed with their own representative bodies, that aim to pursue the interests of their respective population, without prejudice to national interests and to the participation of the State.

## Article 287

**(Categories of Local Authorities)**

1. Local authorities shall be municipalities and villages.
2. The municipalities shall correspond to the territorial constituency of cities and townships.
3. The settlements shall correspond to the territorial constituency of administrative posts.
4. The law may establish other categories of local authorities, which may be either greater or smaller than the territorial constituencies of municipalities or villages.

## Article 288

**(Creation and Extinction of Local Authorities)**

The creation and extinction of local authorities shall be regulated by law, and changes to the area of a particular local authority shall be preceded by consultation with its bodies.

## Article 289

**(Executive and Decision Making Bodies)**

1. The local authorities shall have as bodies an Assembly endowed with deliberative powers, and an executive body, which shall be accountable to the Assembly, in terms stipulated by the law.
2. The Assembly shall be elected through universal, direct, equal, secret, personal and periodic suffrage, by the voting citizens living within the territorial constituency of the local authority, according to the system of proportional representation.
3. The Local Authority Council, headed by a President, shall be the executive body of the local authority.
4. The political parties, coalitions of political parties, or groups of voting citizens, may compete in the elections for the Assembly of the Local Authority.
5. The Head of the list of the political party, coalition of political parties or group of voting citizens who obtain the majority of votes in the elections for the Local Assembly, shall be elected the President of the Local Council.
6. The Chairperson of the local authority's Assembly shall lead the investiture ceremony for conferring authority to the elected President of the local authority council in accordance with paragraph 5 of this Article.

7. The President of the Local Authority Council may be dismissed by the respective Local Authority Assembly and by the supervisory body of the State, in accordance with the law.
8. The regulation of the matters contained in the preceding paragraphs shall be established by law.
9. The composition, organisation, functioning and other powers of local authority bodies shall be established by law.

## TITLE XV **GUARANTEES OF THE CONSTITUTION**

### **CHAPTER I STATES OF SIEGE AND OF EMERGENCY**

#### Article 290

##### **(State of Siege or of Emergency)**

1. The state of siege or of emergency may be declared, in whole or in part of the territory, only in cases of actual or imminent aggression, cases of disruption of or serious threat to the constitutional order, or in the event of a public disaster.
2. The declaration of the state of siege or of emergency shall be reasoned and shall specify which freedoms and guarantees that have been suspended or restricted.

#### Article 291

##### **(Requirements for Choice of Declaration)**

The minor severity of the circumstances of declaration determine the option for the state of emergency, provided that at all times the principle

of proportionality shall be respected and the extent of the measures used and the duration, shall be limited to what is strictly necessary for the prompt reinstatement of constitutional normality.

## Article 292

### **(Duration)**

The duration of the state of siege or of emergency shall not exceed thirty days, extendable for up to three equal periods, if the reasons for the declaration persist.

## Article 293

### **(The Declaration Process)**

1. Having declared the state of siege or of emergency, the President of the Republic shall, within twenty-four hours, submit the declaration together with the reasons thereof to the Assembly of the Republic for the purposes of ratification.
2. If the Assembly of the Republic is not in session, an extraordinary session shall be convened and should meet within a maximum period of five days.
3. The Assembly of the Republic shall evaluate and decide on the declaration within a maximum period of forty-eight hours, and may remain in session while the state of siege or of emergency is in effect.

## Article 294

**(Limits of the Declaration)**

The declaration of the state of siege or of emergency shall not, in any event, restrict or suspend the right to life, to personal integrity, to civil capacity and to citizenship, the non-retroactivity of the criminal law, the right of the defendant to a defence, and freedom of religion.

## Article 295

**(Restrictions on Individual Freedoms)**

Under the state of siege or of emergency, the following measures restricting personal freedoms may be taken:

- a) obligation to remain permanently in a certain place;
- b) detention;
- c) detention in buildings not intended for persons charged or convicted for common crimes;
- d) restrictions relating to the inviolability of correspondence, the confidentiality of communications, the provision of information and the freedom of the press and of radio and television broadcasting;
- e) home search and apprehension;
- f) suspension of the freedom of assembly and demonstration;
- g) requisition of goods and services.

## Article 296

**(Detention)**

Detentions carried out under the state of siege or of emergency shall observe the following principles:

- a) a relative or trusted acquaintance of the detainee, indicated by the detainee, shall be immediately notified and informed about the applicable legal rules within a period of five days;
- b) the name of the detainee and the legal basis for the detention shall be made public within five days;
- c) the detainee shall be presented before a judge within a maximum period of ten days.

## Article 297

### **(Functioning of the Sovereign Bodies)**

The declaration of a state of siege or a state of emergency must not affect the application of the Constitution in respect of the powers and the functioning of the sovereign public bodies, and in respect of the rights and immunities of the holders or members of the respective offices.

## Article 298

### **(End)**

1. At the end of a state of siege or of emergency, the President of the Republic shall address a message to the Assembly of the Republic, giving detailed information regarding the measures taken under it and a list of the names of all citizens affected.
2. The termination of the state of siege or of emergency shall bring its effects to an end, without prejudice to the liability of the agents or persons implementing it for any unlawful acts.

## CHAPTER II

### **AMENDMENT TO THE CONSTITUTION**

#### Article 299

##### **(Initiative)**

1. The proposals to amend the Constitution shall be presented by the President of the Republic or by at least one third of the Members of the Assembly of the Republic.
2. The proposed amendments to the Constitution shall be submitted to the Assembly of the Republic ninety days before the beginning of the debate.

#### Article 300

##### **(Restrictions as to Subject Matter)**

1. Constitutional amendment laws must respect:
  - a) the independence, the sovereignty and the unity of the State;
  - b) the republican form of the Government;
  - c) the separation between religious denominations and the State;
  - d) the fundamental rights, freedoms and guarantees;
  - e) universal, direct, secret, personal, equal and periodic suffrage in the appointment of the elective holders of the sovereign bodies of the provinces and of the local authorities;
  - f) pluralism of expression and of political organisation, including political parties and the right of democratic opposition;
  - g) the separation and interdependence of the sovereign bodies ;
  - h) the control of constitutionality;

- i) the independence of the judges;
- j) the autonomy of provincial and district bodies of decentralised government and of local authorities;
- k) the rights of workers and unions;
- l) the rules governing nationality, which cannot be amended in a way that restricts or removes rights of citizenship.

2. Amendments pertaining to the matters listed in paragraph 1 shall be mandatorily subject to a referendum.

## Article 301

### **(Timing)**

The Constitution may only be amended five years after the entering into force of the last amendment law, except when a decision to use extraordinary amending powers has been passed by a majority of three quarters of the Members of the Assembly of the Republic.

## Article 302

### **(Restrictions as to Circumstances)**

No amendments to the Constitution shall be passed during a state of siege or a state of emergency.

## Article 303

### **(Voting and Form)**

1. The amendments to the Constitution shall be approved by a majority of two thirds of the Members of the Assembly of the Republic.

2. The constitutional amendments that are approved shall be consolidated into a single amendment law.
3. The President of the Republic cannot refuse to grant his assent to the amendment law.

#### Article 304

##### **(Constitutional Amendments)**

1. The amendments to the Constitution shall be inserted into the appropriate place, by making the necessary substitutions, deletions and additions.
2. The Constitution, as amended, shall be published together with the amendment law.

#### TITLE XVI

### **SYMBOLS, CURRENCY AND CAPITAL OF THE REPUBLIC**

#### Article 305

##### **(National Flag)**

1. The national flag shall have five colours: red, green, black, golden yellow and white.
2. The colours shall represent:
  - a) red – the historic resistance to colonialism, the national armed liberation struggle and the defence of sovereignty;
  - b) green – the riches of the soil;
  - c) black – the African continent;

- d) golden yellow – the riches of the subsoil;
- e) white – the legitimacy of the struggle of the Mozambican people, and the peace.

From top to bottom, horizontally arranged are the green, black and golden yellow, alternated with white stripes. On the left side, there shall be a red triangle, in the centre of which there shall be a star, having on it a book, on which are overlapped a firearm crossed with a hoe.

The star symbolizes the spirit of international solidarity of the Mozambican people.

The book, the hoe and the firearm symbolize study, production and defence.

## Article 306

### **(Emblem)**

The emblem of the Republic of Mozambique shall contain as its central elements a book, a firearm and a hoe, over the map of Mozambique, and representing, respectively: education, defence and vigilance, and the peasantry and agricultural production.

Below the map the ocean shall be represented.

The rising sun, symbol of the building of a new life, shall be in the centre.

Enclosing this there shall be a toothed wheel, symbolising the workers and industry.

Surrounding the toothed wheel there shall be, in the right and in the left respectively, an ear of maize and a sugar cane, symbolising agricultural wealth.

At the top, in the centre, shall be a star symbolising the spirit of international solidarity of the Mozambican people.

At the bottom there shall be a red stripe with the inscription “Republic of Mozambique”.

### Article 307

#### **(National Anthem)**

The lyrics and the music of the national anthem shall be established by law, which shall be passed in accordance with paragraph 1 of article 303.

### Article 308

#### **(Currency)**

1. The national currency shall be the Metical.

2. Changes to the currency shall be established by law, which shall be passed in accordance with paragraph 1 of article 300.

### Article 309

#### **(Capital)**

The Capital of the Republic of Mozambique shall be the City of Maputo.

## Article 310

**(Statute of the City of Maputo)**

1. The regime of provincial and district bodies of decentralised government shall not be applicable to the City of Maputo.
2. The City of Maputo shall have a special status, established by law.

**TITLE XVII**  
**FINAL AND TRANSITIONAL PROVISIONS**

## Article 311

**(Transitional Provisions)**

1. The provisions pertaining to the bodies of provincial government, as stipulated in the Constitution of the Republic, shall enter into force upon the completion of the elections that shall take place in the year of 2019.
2. The municipal elections convened for the month of October 2018 shall be held under the regime provided for in this Constitution.
3. The first district elections, under the terms provided for in the Constitution of the Republic, shall take place in the year 2024.
4. Until the first district elections are held in accordance with paragraph 3 of the present Article, the Administrator of the District shall be appointed by the Minister who oversees the area of Local State Administration, after consultation with the Governor of the Province.

## Article 312

**(Previous Law)**

Insofar as it is not contrary to the Constitution, previous legislation shall remain in force until it is modified or repealed.

## Article 313

**(Entry into Force)**

The Constitution shall come into force on the day immediately following the day on which the results of the 2004 General Election are validated and proclaimed.

Approved by the Assembly of the Republic, on the 16th of November 2004.

**The President of the Assembly of the Republic,** *Eduardo Joaquim Mulémbwè*

Let it be published.

**The President of the Republic,** *Joaquim Alberto Chissano*

## Initiative



Conselho  
Constitucional

## Partners



Embaixada da Noruega

NORWAY



**Electoral Support  
Project- SEAM**  
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