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Legal Regulation of Environmental Assessment in the Republic of Mozambique

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Introduction: Environmental Assessment is one of Mozambique's main preventive tools for environmental governance. Its importance has grown in Mozambique as large extractive and infrastructure projects place increasing pressure in the country already exposed to serious climate risks. **Purpose:** this article examines the evolution and the current state of Environmental Assessment in Mozambique. It identifies the main legal weaknesses that limit the effectiveness of the existing system. **Methods:** the study employs doctrinal legal research based on the analysis of constitutional provisions, environmental legislation, subordinate regulatory instruments, and international legal standards. Historical, comparative, and systematic methods of legal analysis are used to examine the development of Environmental Assessment regulation and its interaction with international environmental governance frameworks. **Results:** the analysis demonstrates that Mozambique has built a fairly developed Environmental Assessment system, based on constitutional environmental guarantees and supported by specialized legislation. The current framework provides for project classification, environmental licensing procedures, public participation mechanisms, compliance monitoring, and environmental auditing. The framework is nevertheless far from settled, including legislative fragmentation, outdated statutory provisions, conceptual inconsistencies, insufficient systematization of environmental norms, and procedural shortcomings in public participation and stakeholder engagement. **Conclusions:** for Environmental Assessment to become more effective in Mozambique, the country needs to modernize and harmonize its environmental legislation, clarify institutional competencies, enhance public participation mechanisms, and, possibly, adopt a dedicated Environmental Assessment law. These reforms would improve environmental governance, promote sustainable resource management, and strengthen legal safeguards for environmental protection and socio-economic development.

Keywords: Environmental Assessment; Environmental Impact Assessment; environmental governance; Environmental Law; environmental protection; public participation; environmental licensing; biodiversity conservation; sustainable development; Republic of Mozambique

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Правовое регулирование оценки воздействия на окружающую среду в Республике Мозамбик

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Введение: оценка воздействия на окружающую среду (ОВОС) является одним из ключевых превентивных инструментов экологического управления в Республике Мозамбик. Ее значение существенно возросло в связи с реализацией масштабных проектов в сфере добычи природных ресурсов и развития инфраструктуры, оказывающих возрастающее воздействие на окружающую среду в стране, уже находящейся под влиянием серьезных климатических рисков. **Цель:** анализ эволюции и современного состояния института ОВОС в Республике Мозамбик, а также выявление основных недостатков правового регулирования, снижающих эффективность действующей системы. **Методы:** исследование выполнено с использованием доктринального метода, основанного на анализе конституционных положений, экологического законодательства, подзаконных нормативных правовых актов и международно-правовых стандартов. Применены историко-правовой, сравнительно-правовой и системно-правовой методы, позволившие исследовать развитие правового регулирования ОВОС и его взаимосвязь с международными механизмами экологического управления. **Результаты:** установлено, что в Республике Мозамбик сформирована относительно развитая система правового регулирования ОВОС, базирующаяся на конституционных экологических гарантиях и специальном природоохранном законодательстве. Действующее правовое регулирование охватывает классификацию проектов, процедуры экологического лицензирования, механизмы участия общественности, государственный экологический мониторинг соблюдения установленных требований и экологический аудит. Вместе с тем выявлены системные недостатки правового регулирования, выражающиеся во фрагментарности нормативной базы, сохранении устаревших законодательных положений, концептуальной несогласованности отдельных институтов, недостаточной систематизации экологического законодательства, а также несовершенстве процедур участия общественности и иных заинтересованных лиц в процессе принятия экологически значимых решений. **Выводы:** необходимо дальнейшее совершенствование правового регулирования посредством модернизации и гармонизации экологического законодательства, уточнения компетенции государственных органов, развития механизмов участия общественности и возможного принятия специального закона об ОВОС. Эти реформы позволят повысить эффективность экологического управления, обеспечить более рациональное использование природных ресурсов и усилить правовые гарантии охраны окружающей среды и устойчивого социально-экономического развития.

Ключевые слова: оценка воздействия на окружающую среду (ОВОС); экологическое управление; экологическое право; охрана окружающей среды; участие общественности; экологическое лицензирование; сохранение биоразнообразия; устойчивое развитие; Республика Мозамбик

Introduction

Today, the Republic of Mozambique has a broad legal framework for environmental protection and the sustainable use of natural resources. The constitutional foundations of this framework are defined in the Constitution of the Republic of Mozambique,¹ which vests ownership of land and natural resources in the State. The Constitution also recognizes every

citizen's right to an ecologically balanced environment and imposes upon the State a duty to promote policies aimed at environmental protection and the sustainable management of natural resources.

Strategic Environmental Assessment (SEA) and Environmental Impact Assessment (EIA) are widely recognized in international practice as the principal preventive instruments of environmental governance. In Mozambique, however, only Environmental Impact

¹ Constituição da República de Moçambique [Constitution of the Republic of Mozambique]. Lei n.º 1/2018, de 12 de Junho. *Boletim da República*. I série, n.º 115, de 12 de Junho de 2018.

Assessment (*Avaliação do Impacto Ambiental*) has been comprehensively regulated by legislation. No separate legal framework for SEA has yet been adopted. For this reason, this article focuses on *Avaliação do Impacto Ambiental*, referred to below as “Environmental Assessment”. In Mozambique, the term *Avaliação do Impacto Ambiental* is officially rendered in English as Environmental Impact Assessment. However, given the broad procedural and institutional scope of this mechanism, the present article uses the broader term Environmental Assessment, except where specific statutory provisions or official terminology are discussed.

Environmental Assessment can only work effectively if the legal rules behind it are clear, consistent, and enforceable. An examination of the legal regulation of Environmental Assessment in Mozambique is therefore particularly important at the current stage of the country’s legal and institutional development. Despite the existence of an extensive body of environmental legislation, the Environmental Assessment regime in Mozambique is still spread across several insufficiently systematized instruments, which makes it harder to apply it in practice. The purpose of this article is to analyze the legal framework governing Environmental Assessment in the Republic of Mozambique and to identify its principal structural and normative challenges.

Environmental Challenges and Drivers of Environmental Regulation in Mozambique

Mozambique possesses abundant and diverse natural resources. Its geographical location and extensive coastline have endowed the country with considerable natural resource wealth, including substantial mineral reserves [1], significant hydropower potential, extensive forest and agricultural resources, and valuable marine biological resources within its Exclusive Economic Zone. These resources are critically important for national food security and export revenues.

Mozambique is also home to ecosystems and biodiversity of global significance. Many areas of high conservation value are situated in close proximity to mining operations and major infrastructure corridors. This overlap creates serious risks to biodiversity conservation and ecosystem integrity [4]. It may also threaten the cultural heritage and traditional livelihoods of local communities.¹

At the same time, Mozambique is widely recognized as one of the countries most vulnerable to the im-

pacts of climate change and climate-related natural hazards, both in Africa and worldwide². This vulnerability is linked to geographical exposure, high susceptibility to extreme weather events, and underlying socioeconomic constraints.³ Although agriculture remains a cornerstone of the national economy, the industrial sector has expanded rapidly in recent years. On the other hand, the growth of large-scale extractive projects [8], especially in the northern provinces, where natural gas, coal, iron ore as well as precious and semi-precious minerals are extensively exploited, has produced significant environmental and social impacts. These include ecosystem degradation, biodiversity loss, and adverse effects on the rights and livelihoods of local communities.

These conditions explain why the development and effective implementation of environmental protection measures, risk management mechanisms, and legal instruments aimed at preventing and mitigating anthropogenic environmental impacts deserve closer and urgent attention from both policymakers and legal researchers.

Conceptual and Legal Foundations of Environmental Assessment

The legal framework governing Environmental Assessment in Mozambique seeks to protect natural ecosystems and ensure the realization of the constitutional right to an ecologically balanced environment by preventing and mitigating the adverse environmental effects of human activities. Article 18 of the Constitution of the Republic of Mozambique gives duly ratified international treaties and principles of international law domestic legal force equivalent to legislative acts adopted by the Assembly of the Republic and the Government.

Mozambique is a party to a number of international environmental agreements that have significantly influenced the development of the country’s environmental legislation. These include the Convention on Biological Diversity, the United Nations Framework Convention on Climate Change, the Paris Agreement, the Bamako Convention on the Ban of the Import Into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes Within Africa, and the Nairobi Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region.

The Environmental Law of Mozambique⁴ (Law No. 20/97), adopted in 1997, remains the main frame-

¹ Protecting Traditional Knowledge in Mozambique: Current legal and institutional frameworks. 2024. Available at: <https://natural-justice.org/wp-content/uploads/2025/05/MZ-TK-Legal-Framework-MZ-DRAFT-REPORT-Designed.pdf>

² MICOA – *Ministério para a Coordenação da Acção Ambiental* [Ministry for Coordination of Environmental Action]. *Estratégia Nacional de Adaptação e Mitigação de Mudanças Climáticas (2013-2025)* [National Strategy for Adaptation and Mitigation of Climate Change (2013-2025)]. Maputo, 2012. P. 1.

³ UNDP (*United Nations Development Programme*). Human Development Report 2023-24: Breaking the gridlock: Reimagining cooperation in a polarized world. New York, 2024. P. 291. Available at: <https://hdr.undp.org/system/files/documents/global-report-document/hdr2023-24reporten.pdf>

⁴ Lei do Ambiente [Environmental Law]. Lei n.º 20/97, de 1 de Outubro. *Boletim da República*. 07 de Outubro de 1997. I Série. N. 40.

work statute for environmental protection. It establishes the fundamental principles of environmental governance and provides the legal basis for Environmental Assessment. Under Article 15, activities that are likely to have significant environmental impacts by reason of their nature, location, or scale are subject to specific licensing and registration requirements. An environmental license is therefore dependent on the completion of an Environmental Assessment and is a mandatory prerequisite for obtaining all other project-related permits and approvals.

Article 16 of the Environmental Law further requires the Environmental Assessment process to be supported by an Environmental Impact Study (*Estudo do Impacto Ambiental*) prepared by accredited entities. This requirement reflects the precautionary principle. Under this principle, where uncertainty exists regarding the potential environmental consequences of a proposed activity, decision-makers should give priority to environmental protection [13, p. 95]. The detailed procedures governing Environmental Assessment, including its various forms, stages, and related administrative requirements, are established through subsidiary legislation.

Within the Mozambican legal system, Environmental Assessment (*Avaliação do Impacto Ambiental*) is understood as a comprehensive decision-making process rather than merely a technical study. In this respect, the concept differs from approaches adopted in certain post-Soviet jurisdictions, where environmental assessment has traditionally been associated with a narrower expert-review procedure. More broadly, Environmental Assessment may be defined as the systematic identification, prediction, and evaluation of the environmental consequences of proposed actions prior to decision-making [11].

Most accounts trace the modern concept of Environmental Assessment to the U. S. National Environmental Policy Act (NEPA) of 1969, which first required the preparation of Environmental Impact Statements for major federal actions significantly affecting the quality of the human environment. Since then, Environmental Assessment has become a central instrument of environmental governance and a fundamental component of environmental decision-making systems worldwide.

International recognition of Environmental Assessment was consolidated by Principle 17 of the Rio Declaration on Environment and Development (1992). According to it, environmental assessment should be undertaken for proposed activities that are likely to have significant adverse environmental impacts and that are subject to a decision by a competent national authority. The United Nations Framework Convention on Climate Change, adopted at the same Earth Summit, also recognizes the importance of environmental assessment as an instrument for addressing climate-related challenges

while affirming the sovereign right of States to determine their own institutional and procedural arrangements to implement it.

As noted by Oliveira, Environmental Impact Assessment (*Avaliação de Impactos Ambientais*) constitutes an environmental management instrument applicable to activities and projects that actually or potentially cause pollution or environmental degradation [9]. Morrison further observes that Environmental Impact Assessment is widely recognized as a mechanism for identifying and evaluating the adverse impacts of proposed or planned developments and, subsequently, for avoiding, minimizing, or compensating for such impacts through appropriate project design and management measures [7].

According to Condesso, Environmental Impact Assessment serves as a principal instrument for preventing environmental harm arising from economic and territorial development activities and, consequently, for promoting sustainable development through the balanced management of natural resources while ensuring an adequate quality of life [2].

Melo emphasizes several practical advantages of Environmental Impact Assessment. It allows environmental problems to be identified at an early stage of the decision-making process, when changes to proposed activities can still be made at low cost. It also ensures the proper examination of controversial issues, supports informed decision-making, contributes to greater social and economic equity and improved natural resource management, and helps prevent serious environmental problems and reduce environmental protection costs by giving priority to preventive rather than corrective measures [6].

Despite differences in terminology and procedural design across jurisdictions, Environmental Assessment has now become a standard tool of preventive environmental governance and an important component of sustainable development policy in most states.

Historical Development of Environmental Assessment Regulation in Mozambique

Environmental Assessment was first incorporated into Mozambican legislation in 1991 through the Water Law.¹ That law required an ex ante assessment of the potential environmental and socio-economic impacts of hydraulic infrastructure projects as a precondition for their authorization. This approach was later reinforced by the Investment Law of 1993,² which required project proponents to carry out environmental assessment during the planning and implementation of investment projects in order to identify and evaluate their potential impacts on natural resources.

¹ Lei de Águas [Water Law]. Lei n.º 16/91, de 3 de Agosto. *Boletim da República*. 03 de Agosto de 1991. I Série. N. 31.

² Lei dos Investimentos [Investment Law]. Lei n.º 3/1993 de 24 de Junho. *Boletim da República*. I série, n.º 25, de 24 de Junho de 1993.

The next important step came with the adoption of the National Environmental Policy in 1995¹. The Policy identified the adoption of a comprehensive Environmental Law and its implementing regulations as a priority for national environmental governance. These efforts culminated in the adoption of the Environmental Law (Law No. 20/97) and, shortly thereafter, Decree No. 76/98, which approved Mozambique's first Regulation on the Environmental Assessment Process (*Regulamento sobre o Processo de Avaliação do Impacto Ambiental*). Together, these instruments established the country's first comprehensive legal framework governing Environmental Assessment.

The emergence of this legal framework must be understood in the broader political and economic context of the 1990s. After independence, a prolonged civil war, and the conclusion of the General Peace Agreement in 1992, Mozambique faced the challenge of post-conflict reconstruction and state-building. At the same time, the government sought to attract foreign investment to support economic recovery in a context of limited domestic capital and substantial dependence on external financial assistance [5]. Consequently, environmental regulation evolved alongside broader economic reforms aimed at market-oriented development and the sustainable management of the country's natural resources.² International financial institutions and development partners also played an important role in shaping and supporting these legislative and institutional reforms.

The first Regulation on the Environmental Assessment Process, approved by Decree No. 76/98 of December 29, 1998,³ remained in force for approximately five years. Although relatively simple in design, it established the basic procedural framework for Environmental Assessment in Mozambique by requiring an Environmental Impact Study (*Estudo do Impacto Ambiental*) for activities likely to have significant environmental impacts. Responsibility for administering the process was assigned to the Ministry for the Coordination of Environmental Affairs (MICOA). The Ministry became responsible for both the technical review of environmental studies and decision-making on the environmental viability of proposed activities.

Seen today, the concentration of these functions within a single institution may be regarded as a limitation of the initial regulatory model [12, p. 84]. However, this institutional arrangement reflected the realities of the period, when the State had limited administrative capacity, technical expertise, and financial resources. Despite these limitations, the 1998 Regulation was an important milestone in the evolution of Mozambican environmental governance. It introduced the first formal mechanisms for preventing and mitigating adverse environmental impacts, and laid the foundation for the subsequent development of Environmental Assessment legislation and institutions.

A more sophisticated regulatory framework was introduced by Decree No. 45/2004 of September 29, 2004⁴ and later amended by Decree No. 42/2008 of November 4, 2008.⁵ This reform expanded both the scope and the procedural complexity of the Environmental Assessment process. It introduced six procedural stages and established a classification system for proposed activities based on their anticipated environmental impacts, dividing projects into Categories A, B, and C.

The revised framework also specified the documentation to be submitted by project proponents and linked the scope of environmental studies to the category of the proposed activity. Decision-making authority was divided between the central and provincial levels of government according to the criteria established by the Regulation. Public participation also became a mandatory component of the Environmental Assessment process, and an intersectoral technical committee was established to review environmental documentation and provide technical recommendations.

These reforms considerably strengthened the institutional and procedural foundations of Environmental Assessment in Mozambique [10]. The 2004 regulatory framework remained in force until 2015, when a new Regulation on the Environmental Assessment Process was adopted to reflect both the experience gained in its implementation and developments in international environmental practice. The reform coincided with broader institutional restructuring within the environmental sector, including the transformation of MICOA into the Ministry of Land, Environment and Rural Development.

¹ Resolução n.º 5/95, aprova a Política Nacional do Ambiente [Resolution No. 5/95 approves the National Environmental Policy]. *Boletim da República*. I série, n.º 49, de 06 de Dezembro de 1995.

² Magid O. A. Recursos minerais serão principal fonte de divisas: uma Entrevista com o Ministro dos Recursos Minerais de Moçambique [Mineral resources will be the main source of foreign exchange: An interview with the Minister of Mineral Resources of Mozambique]. *Tempo*. 1985. 23 de Maio.

³ Decreto n.º 76/98, de 29 de Dezembro de 1998, aprova o Regulamento sobre o Processo de Avaliação do Impacto Ambiental [Decree No. 76/98 of December 31, 1998 approves the Regulation on the Environmental Impact Assessment Process]. *Boletim da República*. 29 de Dezembro de 1998. I série. N. 51.

⁴ Decreto n.º 45/2004, de 26 de Junho, aprova o Regulamento sobre o Processo de Auditoria Ambiental [Decree No. 45/2004 of June 26, 2004 approves the Regulation on the Environmental Audit Process]. *Boletim da República*. 26 de Junho de 2004. I Série. N. 123.

⁵ Decreto n.º 45/2008, de 04 de Novembro, altera os artigos 5,15,18, 20,24, 25 e 28 do Regulamento sobre o Processo de Avaliação do Impacto Ambiental, aprovado pelo Decreto n.º 45/2004, de 29 de Setembro. [Decree No. 45/2008 of November 4, 2008 amends Articles 5, 15, 18, 20, 24, 25 and 28 of the Regulation on the Environmental Impact Assessment Process, approved by Decree No. 45/2004 of September 29, 2004]. *Boletim da República*. 04 de Novembro de 2008. I Série. N. 44.

opment (MITADER). The new Ministry was given expanded responsibilities for environmental governance and the administration of Environmental Assessment. This gradual development has contributed to the present fragmented structure of Environmental Assessment regulation in Mozambique. The system has grown through successive reforms, but these reforms have not been fully consolidated into a single coherent legal framework.

The Current Legal Framework Governing Environmental Assessment

Environmental Assessment (*Avaliação do Impacto Ambiental*) is currently governed by the Regulation on the Environmental Assessment Process, approved by Decree No. 54/2015.¹ The Regulation defines Environmental Assessment as a preventive environmental management instrument designed to identify and assess the potential environmental and social impacts of proposed activities before a decision is made on their implementation. Its provisions apply to all public and private activities that may directly or indirectly affect the environment, subject only to the exceptions expressly provided by law.

The Regulation defines the responsibilities of the public authorities involved in Environmental Assessment. It sets out rules on administrative procedures, screening procedures applicable to all activities likely to have environmental effects, and criteria for determining the scope and parameters of the assessment. It also regulates environmental studies, the work of technical review committees, and the rights and obligations of experts, project proponents, and other participants in the process. In addition, it establishes procedural time limits for Environmental Assessment, regulates environmental licensing, defines the roles and responsibilities of environmental consultants and project proponents, provides for compliance monitoring and supervision mechanisms, sets out the system of fees and charges, and establishes administrative sanctions applicable to violations of environmental legislation.

The current framework is built around the classification of proposed activities according to their anticipated environmental impacts. Projects are divided into four categories: A+, A, B, and C. The classification depends on several factors, including the number of affected persons and communities, the characteristics and geographical extent of the affected area, the nature, probability, duration, and significance of anticipated impacts, as well as the potential for direct, indirect, cumulative, and irreversible environmental effects. The screening procedure may lead to the classification of a project into one of the four assessment categories or, in

exceptional circumstances, to the rejection of a proposed activity where it is considered environmentally incompatible. Annexes I–V to Decree No. 54/2015 provide indicative lists of activities for the purposes of project classification.

Category A+ covers projects of exceptional scale or complexity that are likely to generate significant or irreversible environmental impacts due to their scale, complexity, location, or nature. Such projects require enhanced scrutiny and the involvement of independent experts. By contrast, Category C encompasses activities expected to generate only minimal adverse environmental impacts and is therefore exempt from the requirement to undergo an Environmental Impact Assessment.

The scope of Environmental Assessment depends on the category assigned to a project. Depending on that classification, the applicable procedure may require a comprehensive Environmental Impact Study (*Estudo do Impacto Ambiental*), a simplified environmental report, or, in the case of Category C activities, compliance only with Environmental Management Best Practice Procedures. Category A+ projects also require review by an independent review panel. Proponents of Category C activities must submit only Environmental Management Best Practice Procedures (*Procedimentos de Boas Práticas de Gestão Ambiental*) in order to obtain environmental authorization.

The concept of environmental impact is central to the Environmental Assessment framework. In general terms, an environmental impact may be understood as a change in environmental quality resulting from alterations to natural or social systems caused by human activities [11]. In line with this approach, the Regulation defines environmental impact as any positive or negative change in the environment arising from human activities and affecting environmental components such as air, water, land, ecosystems, or human health.

The issue is that the Regulation classifies environmental impacts only partly. It refers to significant and irreversible impacts and also mentions climate-related and social impacts, but it does not establish a comprehensive typology of environmental impacts. The glossary annexed to the Regulation defines direct, indirect, cumulative, and residual impacts, but other categories commonly recognized in Environmental Assessment practice are not expressly addressed. This may lead to inconsistent interpretation and less predictable Environmental Assessment practice.

Another important legal instrument is the General Directive for Environmental Impact Assessment Studies, approved by Ministerial Diploma No. 129/2006² of the Ministry for the Coordination of Environmental Affairs. The Directive standardizes assessment methodologies

¹ Decreto n.º 54/2015, de 31 de Dezembro, aprova o Regulamento sobre o Processo de Avaliação do Impacto Ambiental [Decree No. 54/2015 of December 31, 2015 approves the Regulation on the Environmental Impact Assessment Process]. *Boletim da República*. 31 de Dezembro de 2015. I série. N. 104.

² Diploma Ministerial n.º 129/2006, aprova a Directiva Geral para Estudos do Impacto Ambiental [Ministerial Decree No. 129/2006 approves the General Directive for Environmental Impact Assessments]. *Boletim da República*. 19 de Julho de 2006. I Série. N. 29.

and provides practical guidance for stakeholders involved in the preparation and review of environmental studies. It establishes the structure, content, and methodological requirements applicable to Environmental Impact Studies and related documentation, thereby promoting greater consistency in Environmental Assessment practice.

Public participation is a mandatory component of the Environmental Assessment process. This requirement reflects internationally recognized principles of environmental governance, including Principle 10 of the Rio Declaration on Environment and Development¹ and Article 14 of the Convention on Biological Diversity.² By incorporating public participation into Environmental Assessment procedures, Mozambican legislation seeks to promote transparency, improve the quality of environmental decision-making, and ensure that local knowledge and stakeholder concerns are considered during the assessment and decision-making process.

At the domestic level, the legal foundations of public participation in environmental decision-making are primarily found in the Environmental Law. Article 4 establishes the principles of public participation in environmental management and respect for traditional knowledge and local customs that contribute to natural resource conservation. Article 8 further requires the Government to establish mechanisms enabling civil society and local communities to participate in the formulation of policies and strategies concerning natural resource management. Article 11 provides for the protection of environmental heritage, including its historical and cultural dimensions, through the involvement of local communities. Article 19 guarantees the right of access to environmental information.

Public participation is also recognized in Article 4 of the Law on the Protection, Conservation and Sustainable Use of Biological Diversity.³ This provision identifies public involvement in biodiversity-related decision-making as one of the fundamental principles governing biodiversity conservation, together with the precautionary principle and the principle of informed decision-making.

The Regulation on the Environmental Assessment Process defines public participation as a process through which individuals, communities, and other interested parties whose interests may be directly or indirectly affected by a proposed activity are informed and given an

opportunity to express their views. Public participation is designed to take place throughout the Environmental Assessment process and is implemented primarily through public consultations and public hearings. The procedures governing these mechanisms are set out in the General Directive on Public Participation in the Environmental Impact Assessment Process, approved by Ministerial Diploma No. 130/2006.⁴

Public consultation involves collecting opinions and comments from interested stakeholders, including individuals, community groups, and legal entities that may be directly or indirectly affected by a proposed activity. Public hearings, by contrast, provide a structured forum for dialogue between project proponents, public authorities, and affected communities. They allow stakeholders to raise concerns, seek clarification, and submit recommendations during the Environmental Assessment process.

The rules are relatively detailed, but there are still some significant gaps. In particular, the Directive does not require information concerning the proposed activity to be made available in local or indigenous languages, although it does require public hearing coordinators to know local languages and community dynamics. The rules on public hearings are also framed only in general terms. Both consultations and hearings must be documented in a final report summarizing stakeholder concerns and recommendations, but the legislation does not establish a clear mechanism requiring decision-makers to explain how these inputs have been taken into account in the final licensing decision. As a result, there is a risk that consultation procedures transform into a formal requirement rather than a meaningful part of the process.

In specific cases provided for by the Regulation, the Environmental Assessment process is supplemented by the Directive on Biodiversity Offsets.⁵ This instrument establishes the principles and procedures governing biodiversity offset measures and applies where a project proponent is required to prepare a Biodiversity Offset Management Plan. The Directive also regulates the associated public participation process. Notices of public consultations must be published in a national newspaper and broadcast through state and community radio stations to ensure that affected communities are informed of the proposed offset measures. Additional communication methods may be required depending on

¹ Rio de Janeiro Declaration on Environment and Development. Adopted by the United Nations Conference on Environment and Development, Rio de Janeiro, 1992. Available at: <https://digitallibrary.un.org/record/200866>

² Convention on Biological Diversity. Adopted at the UN Earth Summit Rio de Janeiro, 1992. Available at: <https://www.cbd.int/doc/legal/cbd-en.pdf>

³ Lei de proteção, conservação e uso sustentável da Diversidade biológica [Law on the protection, conservation and sustainable use of biological diversity]. Lei n.º 5/2017 de 11 de Maio. *Boletim da República*. 11 de Maio de 2017. I Série. N. 73.

⁴ Diploma Ministerial n.º 130/2006 de 19 de Julho, aprova a Directiva Geral para o Processo de Participação Pública no processo de Avaliação do Impacto Ambiental [Ministerial Decree No. 130/2006 of July 19, 2006 approves the General Directive for the Public Participation Process in the Environmental Impact Assessment process]. *Boletim da República*. 19 de Julho de 2006. I Série. N. 29.

⁵ Diploma Ministerial n.º 55/2022. Aprova a Directiva sobre Contrabalanços da Biodiversidade. [Ministerial Decree No. 55/2022 of May 19, 2022 approves the Directive on Biodiversity Offsets]. *Boletim da República*. 19 de Maio de 2022. I Série. N. 95.

the characteristics of the project and the affected population.

Once the Environmental Assessment is complete, the competent authority reviews the environmental studies and supporting documentation to determine the environmental viability of the proposed activity and whether an environmental license should be granted. The licensing process consists of three stages: the Provisional Environmental License, the Installation Environmental License, and the Operational Environmental License. Under Mozambican law, the operation of any activity without a valid Operational Environmental License is prohibited.

The Ministry of Agriculture, Environment and Fisheries (*Ministério da Agricultura, Ambiente e Pescas* – MAAP), established in 2025, is the principal state authority responsible for the administration and oversight of Environmental Assessment in Mozambique. The Ministry monitors compliance with environmental license conditions and may require environmental audits where necessary. Compliance monitoring is governed by the Regulation on Environmental Inspection and Surveillance Activities, approved by Decree No. 51/2024,¹ while environmental audits are regulated by the Regulation on the Environmental Audit Process, approved by Decree No. 45/2024.² These mechanisms matter because environmental control should not end with the issuing of a license. They extend regulatory oversight into the implementation phase and are intended to ensure that project proponents comply with environmental obligations and carry out the mitigation measures identified during the assessment process.

Mozambican legislation establishes administrative liability for a range of violations related to environmental licensing. These include carrying out activities without a valid environmental license, failing to obtain the necessary amendments to an existing license, and violating the conditions attached to an environmental authorization. Depending on the nature and gravity of the violation, administrative sanctions may include monetary fines, temporary suspension of activities, or permanent cessation of operations.³ In addition, Article 315 of

the Criminal Code of the Republic of Mozambique provides for criminal liability in certain cases involving unauthorized activities or deliberate failure to comply with environmental requirements.⁴

Environmental Assessment is also regulated through several sector-specific instruments. In the extractive industries, for example, the general Environmental Assessment framework is supplemented by the Environmental Regulation for Mining Activities, approved by Decree No. 26/2004,⁵ and the Environmental Regulation for Petroleum Operations, approved by Decree No. 56/2010.⁶ The coexistence of general and sector-specific regulations has generated scholarly debate regarding the appropriate degree of legislative specialization. Some authors argue that Environmental Assessment should be governed by a more unified legal framework, while sector-specific technical requirements could be regulated through subordinate normative instruments [12, p. 389]. However, the existing legislative framework does not provide line ministries with sufficient regulatory authority to adopt such instruments. As a result, the legal regime governing Environmental Assessment remains insufficiently systematized and fragmented, creating overlaps, regulatory inconsistencies, and legal uncertainty.

The result is a regime spread across legal instruments adopted in different periods and for different sectors. This fragmentation can create inconsistencies in interpretation and implementation, reduce legal certainty, and complicate regulatory enforcement. In practice, such shortcomings may affect both environmental governance and the investment climate.

Recent reforms show that the legislature is still trying to strengthen environmental regulation. These include the adoption of new regulations governing environmental inspections and audits, as well as a revised Investment Law establishing environmental obligations for investors.⁷ At the same time, discussions concerning the modernization of the 1997 Environmental Law remain

¹ Decreto n.º 51/2024 de 17 de Julho, aprova o Regulamento sobre a Actividade de Fiscalização Ambiental [Decree No. 51/2024 of July 17 approves the Regulation on Environmental Inspection Activity]. *Boletim da República*. 17 de Julho de 2024. I Série. N. 138.

² Decreto n.º 45/2024, de 26 de Junho, aprova o Regulamento sobre o Processo de Auditoria Ambiental [Decree No. 45/2024, of June 26, 2024 approves the Regulation on the Environmental Audit Process]. *Boletim da República*. 26 de Junho de 2024. I Série. N. 123.

³ Decreto n.º 54/2015, de 31 de Dezembro, aprova o Regulamento sobre o Processo de Avaliação do Impacto Ambiental [Decree No. 54/2015 of December 31, 2015 approves the Regulation on the Environmental Impact Assessment Process]. *Boletim da República*. 31 de Dezembro de 2015. I série. N. 104.

⁴ Lei de Revisão do Código Penal [Penal Code Revision Law]. Lei n.º 24/2019 de 24 de Dezembro. *Boletim da República*. 24 de Dezembro de 2019. I Série. N. 248.

⁵ Decreto n.º 26/2004 de 20 de Agosto, aprova o Regulamento Ambiental para a Actividade Mineira [Decree No. 26/2004 of August 20, 2004 approves the Environmental Regulations for Mining Activity]. *Boletim da República*. 20 de Agosto de 2004. I Série. N. 33.

⁶ Decreto n.º 56/2010 de 22 de Novembro, aprova o Regulamento Ambiental para as Operações Petrolíferas [Decree No. 56/2010 of November 22, 2010 approves the Environmental Regulations for Mining Activity]. *Boletim da República*. 20 de Agosto de 2004. I Série. N. 46.

⁷ Lei de Investimentos [Investment Law]. Lei n.º 8/2023. *Boletim da República*. I série, n.º 111, de 09 de Junho de 2023.

ongoing.¹ Further clarification of institutional responsibilities and greater harmonization of environmental legislation therefore appear necessary.

Any assessment of Environmental Assessment regulation in Mozambique should also consider the role of international financial institutions, particularly the World Bank. The Bank has been an important source of financial and technical support for infrastructure and development projects in Mozambique and has contributed to the introduction of international environmental and social safeguards.

Projects financed through the World Bank's Investment Project Financing (IPF) are required to comply not only with applicable domestic law but also with the Bank's Environmental and Social Framework (ESF) and its Environmental and Social Standards (ESS). These standards address, inter alia, environmental and social risk management, resource efficiency and pollution prevention, community health and safety, biodiversity conservation and the sustainable management of living natural resources, stakeholder engagement, and access to information.²

Compliance with the Environmental and Social Standards often entails environmental and social requirements that exceed the minimum obligations imposed by domestic law. The World Bank's Environmental and Social Framework therefore not only strengthens the implementation of Environmental Assessment in specific projects [3] but also serves as an important normative reference for the future development of Mozambican environmental legislation and administrative practice.

Conclusions

The analysis above shows that Mozambique has made significant progress in building a legal framework for Environmental Assessment (*Avaliação do Impacto Ambiental*).

One of its principal strengths lies in the existence of a clear constitutional basis for environmental protection and in the incorporation of the fundamental principles and standards of international environmental law into the domestic legal order. In addition, the Environmental Law and the associated subsidiary regulations establish the mandatory nature of Environmental Assessment and provide its basic procedural framework.

At the same time, the analysis reveals a number of systemic weaknesses that call for further legislative reform. These include the continued reliance on outdated legal instruments and the insufficient systematization of

environmental legislation, which contribute to regulatory fragmentation, inconsistencies in implementation, and legal uncertainty. The existing framework also contains significant shortcomings relating to the practical implementation of public participation requirements, particularly the absence of mechanisms ensuring meaningful consideration of stakeholders' views in environmental decision-making.

To improve the effectiveness of Environmental Assessment in Mozambique, several measures appear necessary:

- conducting a comprehensive review of environmental legislation relevant to Environmental Assessment;
- revising and modernizing outdated legal instruments, particularly the Environmental Law of 1997;
- considering the adoption of a dedicated Environmental Assessment Law that would provide a unified legal framework;
- harmonizing and systematizing legislation containing overlapping provisions relating to Environmental Assessment;
- strengthening public participation, inter alia, through the introduction of digital participation mechanisms and by ensuring access to essential project documentation in local languages.

The implementation of these reforms would contribute to the establishment of a more coherent and effective Environmental Assessment regime, strengthen environmental governance, enhance biodiversity conservation, and promote a more predictable legal environment conducive to balancing environmental protection and sustainable economic development.

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² *Banco Mundial*. Quadro Ambiental e Social do Banco Mundial [World Bank Environmental and Social Framework]. 2016. 106 p. Available at: <https://thedocs.worldbank.org/en/doc/456161535383869508-0290022018/original/EnvironmentalSocialFrameworkPortuguese.pdf>

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