

# MOZAMBIQUE

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## Summary

Mozambique is a democratic country in Southern Africa with an area of 744,900 kilometres square with about 28,000,000 people. The territory is divided into 10 provinces, with Maputo being the capital city, and Beira, Nampula, Nacala being its largest cities. The national currency is the Metical (MZN), and the official language is Portuguese.

This former Portuguese colony and overseas province became independent on 25 June 1975 and is currently a multiparty republic headed by Filipe Jacinto Nuysi acting both as Chief of State and Head of Government. It is a proud member of a community of countries which speak Portuguese. Mozambique is also a member of the South African Development Community, the Commonwealth, the Organization of the Islamic Conference and the United Nations. It is also a member of other international organizations including the World Trade Organization, the World Health Organization and International Labor Organization.

Mozambique has made significant developments in agriculture and has vast natural resources at its disposal. Because of its natural beauty, it has enormous potential in the tourism sector as well. Over the past few years many measures have been taken to foster foreign investment initiatives to advance public-private partnerships. There is a continuous effort to promote Mozambique and maintain a steady path towards further economic development.

## Legal System

The Republic of Mozambique is an independent state with a democratic political organization. The country has a legal system based on legislation and statutes enacted by the National Assembly, although specific matters may also be regulated through Acts enacted by the Government.

The Mozambican system includes several levels of review by the Courts, which include the Supreme Court, the Courts of Appeal, the Courts of the Province and District Courts, as provided by Law No. 24/07 of 20 August 2007 (Judicial Organization Law), in the wording provided by Law No. 24/2014, of 23 September 2014.

Alternative dispute resolution was established in Mozambique by the Law on Arbitration, Conciliation and Mediation (Law No. 11/99 of 8 July 1999). Arbitration has been growing over the past few years especially with regard to cases dealing with labor and commercial disputes.

Disputes arising from foreign investment conflicts are governed by Investment Law No. 3/93 of 24 June 1993. Prior to signing the agreements and unless contracted to the contrary, the parties shall resolve any conflicts by applying the following rules:

- Washington Convention of 15 March 1965 on the Settlement of Investment Disputes between States and Nationals of other States and the International Centre for Settlement of Investment Disputes (ICSID) between States and Nationals of Other States;
- Supplemental Mechanism Facility Regulation approved on 27 September 1978 by the Board of Directors of the ICSID (when the foreign entity does not comply with the nationality requirements set forth in the Convention); and
- International Chamber of Commerce, based in Paris.

## Visas

Under the applicable general immigration legal framework, enacted by Decree-Law No. 108/14 of 31 December 2014, different types of visas may be sought by applicants depending on the scope or purpose of the visit to Mozambique. The Law provides for the following visa categories:

- Business Visa;
- Work Visa;
- Investment Activity Visa;
- Temporary Stay Visa;
- Studies and Training Visa;
- Sports and Cultural Activities Visa;
- Transit Visa; and
- Residence Permit – DIRE.

For any foreign citizen to be authorized to enter the country, several general requirements must be fulfilled, namely, presenting a valid passport or legally equivalent document with a minimum six months' validity period, provide proof of sufficient means of financial support for the period of stay in Mozambique and pay the respective government fees.

Since Mozambique is not a party to The Hague Convention, the documents to be presented before the official entities need to be legalized by the Ministry of Foreign Affairs of the applicant's home country and be duly certified by the Consulate of Mozambique with jurisdiction in that country.

It must be noted that, since Portuguese is Mozambique's official language, the documents submitted shall be written in Portuguese and all translations must follow procedure mentioned above, unless undertaken in Mozambican territory in which case they shall also be subject to certain other formalities.

### **Business Visa**

A foreign citizen wishing to enter Mozambique for business purposes may apply for a business visa at the Mozambican Embassy or Consulate in their country.

This type of visa allows entry to Mozambique for business purposes. It must be used within 60 days from the date of issue and allows the holder to stay for a 30-day period, which may be extended up to 90 days. This type of visa does not allow the holder of the visa to apply for a residence permit.

### **Work Visa**

This type of visa is granted to foreign citizens and allows the holder to temporarily undertake paid or unpaid professional activities for third parties in Mozambique. It must be used within 60 days from the date of issue and allows for multiple entries and stays throughout the duration of the employment contract. The duration of the work visa shall correspond to the duration of the employment agreement. This visa must be used to enter the country within 60 days following the acquisition of the visa.

There are special rules for the extractive industry sector:

- a work visa application must be addressed to the Minister overseeing the immigration area when submitted by the interested company;
- a work visa must be accompanied by certificate or work permit granted by the Minister in charge of the labor area pursuant to an opinion from Minister overseeing the mineral resources sector; and

- the employing entities are responsible to communicate the termination of the employment agreement and to repatriate the foreign employees, so they must provide a guarantee in cash for such purpose.

### **Investment Activity Visa**

This type of visa is issued to foreign investors or legal representatives/proxies of companies with investment project with an amount equal to or above USD 50 million, which have been duly approved by the Investment Promotion Centre and for implementing such projects. These visas must be used within 60 days and are granted for multiple entries and allow for stays up to two years. The duration of the visa is extendable for successive and equal periods of time so long as the reasons underlying the granting of the visa are maintained.

Even if usually applied for at the diplomatic and consular missions of Mozambique in the applicant's home country, this visa can also be applied for in Mozambique, where it shall be granted by the Mozambique Migration Services.

In certain circumstances and in accordance with specific requirements, this visa also entitles the holder to apply for a resident permit.

### **Temporary Stay Visa**

This type of visa is granted to the spouse of a foreign national and to their minor children. These visas are granted for one year, allow multiple entries and can be extended up to the moment when the reasons underlying its granting end.

This type of visa does not grant holders with an authorization to establish residency in Mozambique.

### **Residence Permit – DIRE**

Foreign citizens who hold certain types of visas and who intend to establish residence in Mozambique may apply for a residence permit in the country, which may also be applicable to their spouses and children.

Mozambique offers two types of residence visas to foreign nationals:

- the temporary residence; and
- the permanent residence

both dependent on the issuance of a residence permit.

Highlighted below are some general conditions which must be met by the applicant for a residence permit:

- the applicant must not be forbidden to enter into Mozambique and must not have been declared a persona non grata or previously deported and shall not undertake activities in Mozambique which can lead to deportation;
- whenever the intention to work is underlying the request for residence, the applicant must also provide documentary proof of his right to perform the work;
- requests (and renewals) of residence permits must be submitted before the Migration Services of the area of Mozambique where the applicant is residing; and
- the physical presence of the applicant at the Migration Services for this purpose is necessary and not waivable.

Regarding the spouse and dependants who do not intend to work in Mozambique, the request for residence permit shall be assessed based on the approval of the request from the main applicant.

Temporary residency permits are granted for one year and are renewable for successive periods of the same duration. After holding a temporary residence permit for 10 consecutive years, permanent residency permits may be granted for five years, renewable for successive periods of the same duration. Persons over 65 years may apply for a lifetime residence permit.

## **Employment and Labor Laws**

Although there are a significant number of laws governing employment and labor issues in Mozambique, the main statute is the Labor Law governed by Law No. 23/2007 of 1 August 2007.

An employment contract may be created for an indefinite period of time or for a fixed-term. Fixed-term employment contracts can be entered into for a maximum period of 24 months and may be renewed twice more if the parties agree. The Labor Law sets working hours as follows:

- 8 hours per day; and
- 48 hours per week.

These standard hours can sometimes be waived depending on the hours needed to be worked for the job.

Employees are entitled to remuneration based on the quantity and quality of work. In addition, all employees are entitled to an annual vacation period of:

- one day of vacation for each month of effective work during the first year of work,
- two days of vacation for each month of effective work during the second year; and
- 30 days of vacation per year as from the third year of work.

Regarding the specific terms governing the hiring of foreigners, Decree No. 37/2016 of 31 August 2016 applies. Certain rules apply to the number of foreign nationals that can be hired. This is allotted by the size of the employing entity (the quota regime). The legally established quota system is as follows:

- Five percent of all employees in large companies (those employing more than 100 employees);
- Eight percent of all employees in medium-sized companies (those employing between 10 and 100 employees); and
- 10 percent of all employees in small-sized companies (those employing less than 10 employees).

Foreign workers hired for investment projects approved by the competent authorities are allowed in higher numbers than provided in the quota system.

Specific rules are also established for the hiring of foreign nationals for periods up to 90 days. An exception is also made in the hiring of foreign nationals in breach of the quota system which may be permitted when no Mozambique national possesses the requisite academic or professional qualification. In such cases, the hiring shall only be authorized after the employing entity presents an application addressed to the Ministry that oversees the employment sector.

## **Social Security Contributions and Individual Income Tax**

The social and compulsory insurance scheme for nationals and foreign residents employed providing activities for third parties and or independent workers residing in Mozambique was established regardless of the economic sector at issue.

Before the social security system can be granted for workers and their respective employers, there is mandatory registration, and the current

rates are four percent to be paid by the employer and three percent to be paid by the employee.

Individual income tax is governed by the Personal Income Tax Code (IRPS Code), approved by Law No. 33/2007 of 31 December 2007, in wording provided by Law No. 20/2013 of 23 September 2013. The IRPS Code is applicable to the annual global amount of income arising from various categories of income, such as dependent work, corporate and professional income, real estate related income, capital and capital gains income. All income, whether in cash or in kind, is subject to taxation, irrespective of the place where it is obtained and the currency and form in which it is obtained. The IRPS Code establishes general tax rates which vary in accordance with the annual amount of taxable income obtained by each taxable person and which ranges from 10 percent to 32 percent. Non-compliance with personal income tax rules or with social contribution rules is subject to penalties.