

# Current state on judicial proceedings of hidden debt worldwide

Legal proceedings connected to the hidden debts (the US \$ 2.2 billion) contracted by the Government of Mozambique between 2013 and 2014 with the Swiss Bank Credit Suisse and the Russian VTB Bank are ongoing in five countries, namely Mozambique, South Africa, the United States of America, the United Kingdom, and Switzerland.



Credits: Público

## MOZAMBIQUE

**W**ith the opening of the process 1/PGR/2015, Mozambique became the first country to start investigating the hidden debts in 2015. The investigation ran its course at a turtle pace, a typical Mozambican way.

In 2017, with the audit of hidden debts by Kroll Inc., the investigation gained prominence in the national and international press. There were revelations of over-invoicing in the acquisition of equipment and services provided to the Mozambican State by Prinvest, which reached more

than US \$ 700 million; Payment of commissions and bribes that reached more than US \$ 200 million; and US \$ 500 million that went missing.

In December 2018, former Finance Minister, Manuel Chang, was arrested in South Africa, a state of affairs that marked the turning point in the investigation of the hidden debts in Mozambique. Chang was arrested under an international arrest warrant issued by the United States Department of Justice (USA) due to his involvement in contracting the hidden debts that, according to the US prosecution, violated US financial security laws.

With a key player arrested abroad, the Attorney General's Office (PGR) accelerated the pace of the investigation to show their interest in investigating the case. In the first months of 2019, some visible actions were carried out, namely the detention of the main defendants involved in contracting and managing the hidden debts, and later the provisional indictment against 20 defendants.

The most important individuals accused in this process are: Armando Ndambi Guebuza, son of the former President of the Republic, Armando Guebuza; Inês Moiane, former Private Secretary of Armando Guebuza; Manuel Renato Matusse,

former Political Advisor to Armando Guebuza; Gregório Leão José, António Carlos do Rosário and Cipriano Sisínio Mutota, all officers of the State Information and Security Service (SISE), holding leadership positions.

The arrests of these individuals were seen as an effort by the PGR to do everything possible to block the extradition of Manuel Chang to the USA, where, in court, he would reveal important information that could compromise senior individuals who control the State and Frelimo Party, mainly during the electoral year (2019 General Elections).

Except for one defendant, all appealed to the Maputo City Court of Appeals, at the Maputo Superior Court of Appeal. But in early July, the Court of Appeal rejected the appeals, "maintaining the order of the Maputo City Judicial Court."

Thus, legal conditions were created to proceed to the hearing and judgment phase of the hidden debts in Mozambique. Even so, the expected trial will only be the first, as there may be so many others since there are autonomous processes linked to the hidden debts started by PGR. Other autonomous processes start as information becomes available.

## **SOUTH AFRICA**

Since February 10, the decision to extradite Manuel Chang to Mozambique or the USA has been in the hands of the Minister of Justice and Correctional Services, Ronald Lamola, since Mozambique has given up on the legal dispute over the extradition of the former Minister of Finance.

Former Minister of Justice, Michael Masutha, had decided to extradite Manuel Chang to Mozambique, but his successor, Ronald Lamola, requested the Court to cancel the decision after the Budget Monitoring Forum (FMO) started a process against the extradition of Manuel Chang to Mozambique. FMO argued that, once he had diplomatic immunity in Mozambique, as a Member of the Parliament, the Assembly of the Republic, and weighing no criminal charges against him, his trial would not

be effective.

In the verdict on November 1st, 2019, Judge Denise Fisher, from the Superior Court, Gauteng Division, decided that it is up to Minister Ronald Lamola to extradite Manuel Chang to Mozambique or the USA.

Mozambique appealed against Judge Denise Fisher's decision to the High Court of Appeal and the South African Constitutional Court but, on February 10, they withdrew their application, paving the way for Minister Ronald Lamola to decide Manuel Chang's extradition.

On February 17, a week after announcing the withdrawal of the judicial dispute for the extradition of Manuel Chang, PGR requested Minister Ronald Lamola to extradite Manuel Chang to Mozambique, claiming that the Attorney General Office is waiting for the former

Minister of Finance to proceed with the formal charge of the autonomous process No. 536/11/P/2019.

The Minister of Justice and Correctional Services of South Africa has had full powers to de-

cide on the extradition of Manuel Chang since February 10, but he has not acted on the matter yet. Chang has been arrested in South Africa since December 29, 2018, and 20 months have gone, which is about 600 days.

## **UNITED STATES OF AMERICA**

In a US Court, the process of the hidden debt has eight (8) defendants, four of whom have already appeared before the judge. The defendants are Jean Boustani (Prinvest employee) was tried and acquitted by the jury; Surjan Singh, Andrew Pearse and Detelina Subeva, all former Credit Suisse employees responsible for negotiating and concealing the hidden debts. The three pleaded guilty to at least one of the crimes

of which they are accused and, at the moment, await the judge's verdict.

The US justice system is waiting for the extradition of Mozambicans Manuel Chang, Teófilo Nhangumele, and António Carlos do Rosário, who are co-defendants in the process. The eighth defendant is Prinvest's former Chief Financial Officer, Lebanese Najib Allam, who is said to be on the run.

## **UNITED KINGDOM**

The trial of case number CL-2019-000127 has already started in the Commercial Division of the High Court of Justice of England. The case was brought by the Government of Mozambique against 10 defendants, namely Prinvest and its subsidiaries, Credit Suisse and its agencies, and former employees of Credit Suisse involved in hidden debts. On behalf of the State, PGR requests for the cancellation of ProIndicus' US \$ 622 million debt granted by Credit Suisse and compensation for all losses arising from the hidden debt scandal.

The first hearings of the case took place in June,

and formal questions of the defendants' names and jurisdiction were discussed. On July 1st, Justice Waksman decided on the validity of the charge against Prinvest, which was contesting the way the company's name was written in the charge. "In my opinion, this is a case of an error with the name and not a case of misidentification", said the judge.

With the preliminary issue solved, the trial that started more than a year ago, in March 2019 can now proceed. Justice Waksman has set the next court session for January 2021.

## **SWITZERLAND**

Last June, the Attorney General's Office of Switzerland announced that they started an investigation against "unknown individuals" over the hidden debt scandal in Mozambique, in response to the request for collaboration from the Mozambi-

can authorities. Credit Suisse, the largest creditor of the hidden debts, is a Swiss Bank, although the agency that granted the loans to Mozambican companies (ProIndicus, MAM, and EMATUM) has its office in London, United Kingdom.

## Membros do FMO



## Parceiros de financiamento



## Contactos

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