

GOVERNMENT-SUPPORTED LOCAL MILITIAS: A PROBLEM IN THE NEAR FUTURE?

Non-transparent membership; no control of arms and ammunition

- The decree that establishes the Local Force and approves the respective Statute has gaps that, in the future, could result in serious security problems. Starting, from the outset, with the ease with which people from the community become members of the Local Force: personal will and recognition by the local administrative structure is enough. Gaps include the lack of effective arms control mechanisms and other military equipment assigned by the State to the member of the Local Force. Unlike regular troops, members of the Local Force are not subject to the quartering regime, as each member takes a weapon and ammunition home. For this reason, the Government should establish strict measures to control the weapons assigned to members of the Local Force to avoid situations of misuse and even diversion.





The expression Local Force began to be used in early 2022 to designate groups of national liberation fighters and their descendants who organized themselves to fight violent extremists in Cabo Delgado. The groups received weapons from the State and began fighting in the so-called “Maconde plateau”, specifically in Mueda, Muidumbe and Nangade, three districts that did not register large-scale attacks in the first three years of violent extremism.

Although locally perceived as being “legitimate”, the Local Force’s action had no legal framework. The National Defense and the Armed Defense Forces of Mozambique (FADM) have their special legal regime provided for in Law n.º 12/2019, of September 23, which approves the Defense and Security Policy (and revoked Law n. 17/97, of October 1st) and Law no 18/2019, of September 24th, Law of National Defense and FADM.

In article 5, Law n.º 12/2019, of September 23, which approves the Defense and Security Policy, establishes that the Defense and Security Forces (FDS) are constituted by the Armed Defense Forces of Mozambique (FADM); Police of the Republic of Mozambique (PRM); and State Information and Security Services (SISE).

In Article 7, the same law defines National Defense as “the activity carried out by the State and citizens that aims to defend the independence and national unity, preserve peace, sovereignty, integrity and inviolability of the Country, guarantee the functioning normal functioning of institutions and the security of citizens against any threat or aggression”.

However, Article 8, Law No. 12/2019, of 23 September, establishes that the military component of National Defense is ensured by the Armed Forces for the Defense of Mozambique (FADM) and the non-military component by other State bodies. The same law assigns to the Armed Forces the mission of ensuring military defense against any external threats or aggression, including terrorism or violent extremism. In other words, it means that in situations where National Defense implies military intervention, as is happening in Cabo Delgado, the responsibility lies exclusively with the FADM.

As a result, therefore, the Local Force was a foreign element in National Defense. Aware of the problem, the Government began to admit the possibility of legalizing militia groups as a way of guaranteeing their control. This is how, in December of last year¹, the Assembly

of the Republic approved, with votes from the Frelimo bench, the proposal to add Article 7A to Law n.º 18/2019 of 24 September, Law on National Defense and the FADM, to give a legal framework to the Local Force².

At the time, the Minister of National Defense defended that the approval of the bill would allow for improvements in the “structuring, organization and logistical assistance” to the Local Force, in addition to the Government being able to “improve its control”, guaranteeing “respect and strict observance” of human rights by its members³.

The amendment to Law No.18/2019, of September 24, attributed competence to the Council of Ministers to approve the norms for the establishment, organization and operation of the Local Force, made up of community members from a basic territorial district, which operates in the dependency of the Chief of the General Staff of the FADM⁴.

This is how, in the session of the 4th and 5th of last April, the Council of Ministers approved the Decree that establishes the Local Force and approves the respective Statute. This is Decree No. 15/2023, of April 14, which defines the Local Force as an exceptional and temporary grouping made up of national citizens belonging to a given community that,

¹ <https://www.dw.com/pt-002/mo%3%A7ambique-governo-quer-legalizar-mil%C3%ADcias-em-cabo-delgado/a-61737499>

² <https://www.mdn.gov.mz/index.php/noticias/ar-aprova-a-proposta-de-aditamento-lei-da-defesa-nacional-e-das-forcas-armadas-de-defesa-de-mocambique>

³ <https://www.cartamz.com/index.php/politica/item/12573-parlamento-mocambicano-legaliza-forca-local>

⁴ <https://www.portaldogoverno.gov.mz/por/content/download/15712/128589/version/1/file/COMUNICADO+DA+40.%C2%AA+SOCM2022.pdf>

voluntarily, organizes itself to contribute to its self-defense against threats to sovereignty and territorial integrity.

The big question that arises is whether the decree that establishes the Local Force and approves the respective Statute has gaps that, in the future, could result in serious security problems. Starting, from the outset, with how people in a community become members of the Local Force.

Under the terms of number 1 of article 6, Decree number 15/2023, of April 14, “the status of member of the Local Force is acquired by voluntary membership, upon recognition by the local administrative structure”. In other words, personal will and recognition by the administrative structure are the only requirements required for people to become members of the Local Force, with the right to receive a firearm and other military material from the State.

The decree does not clarify what the “recognition” to be done by the “local administrative structure” consists of. Does it mean recognizing that the person lives in the community or recognizing that the person is suitable and has the physical and moral capabilities to perform military functions and fulfill the mandate to defend national sovereignty? And how is this “recognition” carried out by the “local administrative structure”? And who is, effectively, the “local administrative structure”?

Another serious aspect is that the decree does not provide for mechanisms to control the weapons assigned to members of the Local Force, including the purposes for which they are used. Unlike regular troops, members of the Local Force are not subject to the quartering regime, as each member takes a weapon and ammunition home. For this reason, the Government should establish strict measures to control the weapons assigned to members of the Local Force to avoid situations of misuse and even diversion.

The decree obliges only the member of the Local Force to “immediately return the weapons and military equipment assigned upon a summons from the competent authority or deactivation of the Local Force” (article L of article 8). In Article 12, the decree assigns to the Minister of National Defense the design and regulation of the uniform and war material of the Local Force, under the proposal of the General Staff of the FADM. The fact is that until today there is still no regulation on the uniform and war material of the Local Force.



“

The decree does not clarify what the “recognition” to be done by the “local administrative structure” consists of. Does it mean recognizing that the person lives in the community or recognizing that the person is suitable and has the physical and moral capabilities to perform military functions and fulfill the mandate to defend national sovereignty? And how is this “recognition” carried out by the “local administrative structure”?

”

Regarding the loss of membership in the Local Force, the decree establishes, in paragraph 2 of article 6, four circumstances, namely; a) member’s request; b) due to removal; c) on the death of the member; d) by deactivating the Local Force. If there is clarity in subparagraphs a), c) and d), the same cannot be said concerning subparagraph b), precisely because the circumstances that dictate the removal of the member of the Local Force are not listed. It is also not clear which entity triggers the process that culminates in the removal of the member from the Local Force.

Regarding subordination, the decree establishes, in paragraphs 1, 2, 3 and 4 of article 9, respectively, that: The Local Force operates under the FADM General Staff; The Local Force coordinates its operations with the Operational Theater Commander; In its operation, the Local Force articulates with the administrative authority of the respective community; The General Staff of the FADM provides early and regular information to the Commander-in-Chief of the Defense and Security Forces on the operations, organization and functioning of the Local Force.

For infractions committed in the exercise of his duties, the member of the Local Force will be subject to disciplinary proceedings, under the terms of the Military Discipline Regulations of the FADM, with the necessary adaptations, without prejudice to applicable criminal or civil proceedings.

Table 1: Rights and Duties of the Local Force

RIGHTS	DUTIES
Have ID card	Respect the Constitution, laws and institutions of the State;
Benefit from a Local Force subsidy, attributed monthly, under the terms to be established by a joint diploma of the Ministers who oversee the areas of National Defense and Economy and Finance;	Exercise surveillance in the community;
	Coordinate its operations with the Defense and Security Forces;
	Report the presence of foreign elements in the community to the competent authorities;
Benefit from free medical and medication assistance in the health units of the National Health System and the Military Health System, upon presentation of the Local Force member identification card;	Detect and neutralize enemy infiltration attempts within the Local Force;
	Conserve and diligently use assigned weapons and equipment;
Benefit from funeral assistance that includes the purchase of the urn and provision of logistical support to the family of the deceased, except for the member of the Local Force who is a State pensioner;	Defend and conserve the public and community good;
	Ensure respect for human rights;
Benefit from the disability pension when, in the exercise of their duties, they become permanently disabled under the terms of the Social Security Regulations of the FADM;	Serve the community to the extent of its capabilities;
	Maintain secrecy regarding all information obtained according to these Bylaws;
The heirs of a member of the Local Force who is not a state pensioner who loses his life in the exercise of his duties benefit from a blood pension;	Ensure, in its relations with the community, the preservation of cultural values, the spirit of tolerance and dialogue, to contribute to the promotion of citizenship values and civic education;
Benefit from means of compensation when, in the exercise of their duties, they contract a permanent physical disability.	Immediately return the weapons and military equipment assigned upon notification by the competent military authority or deactivation of the Local Force.
NB. These rights are only due to the member of the Local Force in activity, except for the member who has contracted permanent physical disability, in which case he will continue to benefit from the disability pension, medical and medication assistance, as well as means of compensation.	

Source: Author's compilation based on Decree n.º15/2023, of April 14, which establishes the Local Force and approves the respective Statute.



EDITORIAL INFORMATION

Property: CDD – Centro para Democracia e Desenvolvimento
Director: Prof. Adriano Nuvunga
Editor: Emídio Beúla
Author: Emídio Beúla
Layout: CDD

Address:
 Rua de Dar-Es-Salaam Nº 279, Bairro da Sommerschild, Cidade de Maputo.
 Telefone: +258 21 085 797

 CDD_moz
E-mail: info@cddmoz.org
Website: http://www.cddmoz.org

FINANCING PARTNERS

