

60TH DAY OF THE "HIDDEN DEBTS" SCANDAL TRIAL

Zulficar Ahmad's new version, The Bar Association's decision banning Imran from testifying, the judge's irritation and the warning to declarant Alexandre Chivale

- Technical issues caused the first session of the year to start with a delay by four hours. Heard for the second time at the request of his lawyer, defendant Zulficar Ali Ahmad changed the narrative about the USD 100,000 transferred by Privinvest to his account in 2013. He said that the amount was paid by the defendant António Carlos do Rosário to his company for the work of intermediation in the business of purchase and sale of a property. And he admitted that he was forced to lie to the authorities by his former lawyer Imran Issa to prevent António Carlos do Rosário from losing the house.



Technical issues delayed the start of yesterday's session

- The declarant Osman Mahomed, Zulficar Ali Ahmad's partner, also assumed that he lied to the authorities to prevent António Carlos do Rosário from losing the house he bought for USD 1,250,000, in the prime area of Maputo City. Unlike Zulficar Ahmad who claimed to have been threatened, Osman Mahomed said that nobody forced him to lie to the Attorney General: "Nobody asked me to protect António Carlos do Rosário. I did it because he was my friend".

- Controversial lawyer Imran Issa returned to court to be heard as a declarant in relation to facts attributed to defendant Angela Leão. But before the questioning began, Imran Issa submitted a preliminary issue: He said he would not talk about facts relating to his former clients because the Mozambique Bar Association had revoked the order terminating the obligation of professional secrecy. The court accepted Imran Issa's position and there was no questioning.

- The court is facing difficulties in locating and notifying the lawyer Alexandre Chivale, enrolled as a declarant in a case in which he has already acted as the lawyer to three defendants. Chivale is due to be heard today and if he fails to appear in court, judge Efigénio Baptista warned that he will issue a warrant for his arrest and order the filing of criminal proceedings for disobedience to judicial authority.

A month after the interruption caused by Covid-19, the trial of the biggest financial scandal in Mozambique's history resumed yesterday. The first session of the year started four hours late due to technical issues. Before the hearing of defendant Zulficar Ali Ahmad, some preliminary issues submitted by the Mozambique Bar Association (OAM), an assistant in the case, were discussed. One of them had to do with the absence of the names of Waldemar de Sousa (former Director of Mozambique Central Bank) and Zófimo Muiuane from the list of the 32 declarants who will be heard until 17 February.

Judge Efigénio Baptista justified the exclusion of Waldemar de Sousa saying that the former director of Mozambique Central Bank is under investigation in a case related to the "hidden debts" which is underway in the 10th Section of the Judicial Court of Maputo City. Through his lawyer Abdul Gani, the former director of the Central Bank requested the court not to hear him as a declarant, since the facts about which he would be questioned are related to the facts of the case in which he was a defendant.

In relation to Zófimo Muiuane, the judge explained that he took the decision to exclude him from the list of declarants because the facts about which he wanted to question him had been clarified. In addition, Zófimo Muiuane himself requested the court not to be heard, claiming to be related by affinity to one of the defendants, in this case Armando Ndambi Guebuza. Zofimo Muiuane is serving



a long-term imprisonment sentence for having been found guilty of the murder of his wife Valentina Guebuza, daughter of former President Armando Guebuza.

The OAM had filed an appeal against Judge Efigénio Baptista's order determining not to hear Jean Boustani, as a declarant. The assistant believes that the hearing of the Privinvest group manager responsible for paying bribes to the people involved in the "hidden debts" is essential for the discovery of the material truth. But the judge dismissed the request and, as grounds, argued that, as an assistant in the case, the OAM has no legal standing to file that kind of appeal.

According to the judge, the assistant in the case can only lodge appeals against three

types of orders, namely judgments, final indictments and orders terminating the proceedings. And the appeal filed by OAM on the hearing of Jean Boustani as a declarant does not fall within the three circumstances provided by law.

In another application, OAM requested that the court issue an order to the State Intelligence and Security Service (SISE) asking it to confirm whether or not it had any link with the lawyer Imran Issa. The judge dismissed the application on the grounds that, by its nature, SISE would never confirm that lawyer Imran Issa was its collaborator. "SISE will never confirm whether someone is its collaborator. That is a state secret. It is in the law. The court will never ask for confirmation of what is in the law."

Zulficar Ali Ahmad says he was forced to lie to avoid Antonio Carlos do Rosario losing the house he bought for USD 1,250,000

After the unconvincing version about the 100 thousand dollars he received from the Prinvest group in 2013, the defendant Zulficar Ali Ahmad was heard for the second time yesterday, at the request of his lawyer. He assumed having made false statements to the Attorney General's Office (PGR) and the court, alleging that he was forced to lie to prevent the defendant António Carlos do Rosário from losing his house. The facts date back to 2013, when his friend and partner in the real estate company Osman Mahomed informed him of the existence of a "gentleman" who was looking for a house to buy. It was the António Carlos do Rosário, Osman Mahomed long-time friend.

Zulficar Ali Ahmad remembered that an acquaintance of his by the name of Adriano Weng, at the time resident in Lisbon, had a house for sale in Maputo City. "I called to confirm if the house was still available. He confirmed and instructed his secretary to show the house. We went to see the house. I was with my partners (Osman Mahomed and Nordin Aboo Bacar) and Doctor Imran Issa, our company's lawyer. That was the day I met Doctor Antonio Carlos do Rosario. He liked the house and Doctor Imran Issa handled all the sale and purchase documents."

Located in the prime area of Maputo City, the house cost USD 1,250,000, an amount transferred by the Prinvest group to the owner's account (Adriano Weng) domiciled abroad. In addition to the value of the house, António Carlos do Rosário had to pay another USD 100,000 to the company of Zulficar Ali Ahmad, Osman Mahomed and Nordin Aboo Bacar, as a commission for brokering the deal.

"He asked us if we had dollar accounts in Dubai or elsewhere outside Mozambique, we answered in the negative. He asked if we had dollar accounts in Mozambique and I was the only one who did. He authorised the transfer of USD 100,000 to my account. I divided the amount with my partners. We each got 33,000 dollars, the equivalent of one million meticaís at the exchange rate of the time. At that time no one knew that this money came from a dubious source."

After receiving the commission amount, Zulficar Ali Ahmad said he went to live in Sou-



Zulficar Ali Ahmad

th Africa for health reasons. When he was notified by the Attorney General's Office in 2018, he looked for Imran Issa, his lawyer, childhood friend and family member. "He advised me that we should go and talk to Doctor António Carlos do Rosário to design the strategy for my defence. I always wanted to speak the truth, but they forced me to speak what they wanted. They threatened me with kidnapping and death, they threatened to harm my family."

It was at this alleged meeting that Imran Issa allegedly advised Zulficar Ali Ahmad to hide the true origin and purpose of the USD 100,000 he received in his account. And that is what he did: he went to the Attorney General's Office to tell them that he received the money at the request of a Brazilian friend of his who lived in South Africa. His friend had already passed away, so the Attorney General's Office had no way of confronting him with this allegation. "I am very sorry to the Prosecution and the court for having omitted the truth. I always wanted to tell the truth, but I was ill advised by my lawyer. I did not steal from anyone, I brokered the sale of a house."

Asked by the judge who the people who threatened him were, Zulficar Ali Ahmad pre-

ferred not to mention names, claiming he feared reprisals. But he insisted that he faced threats not to tell the Attorney General's Office that the USD 100,000 transferred to his account were in related to the real estate brokerage commission. "Doctor Imran Issa said that if I told the truth at the Attorney General's Office, Doctor Antonio Carlos do Rosário would lose the house."

António Carlos do Rosário and Imran Issa met in 2013 when the two were involved in the business of purchase and sale of the property, the former being a buyer and the latter a lawyer for the real estate intermediation company belonging to the Zulficar Ali Ahmad and the declarants Osman Mahomed and Nordin Aboo Bacar. "António Carlos do Rosário really liked Imran Issa's work and invited him to work together."

It is on record that Txopela Investments, a company linked to Antonio Carlos do Rosario, was for some time hosted in the same office where the company of Zulficar Ahmad and his partners operated, at Mao Tse Tung Avenue, 622, 1st floor. Zulficar Ali Ahmad blamed his partners for hosting Txopela. "That happened when I was already living in South Africa."

Osman Mahomed also confirms he lied to the Attorney General's Office to protect his "friend" António Carlos do Rosário

Second person to be heard by the court, Osman Mahomed also amended his statements given at the Attorney General's Office, justifying that he wanted to tell the truth. He confirmed much of the statement given by his partner and friend Zulficar Ali Ahmad. Asked why he made false statements at the Attorney General's Office, Osman Mahomed replied in the following terms: "At that time I was very upset and could not answer some questions. Nobody forced me to lie. I apologize to the court, but the truth is that we brokered the purchase and sale of Adriano Weng's house and earned a commission of USD 100,000. We split the amount."

But the judge insisted on the question about the reasons that led Osman Mahomed to make false statements to the Attorney General's Office, to which he eventually admitted that he was protecting his friend António Carlos do Rosário, purchaser of the property. To a question from the Prosecution about the reasons that led him to protect the defendant António Carlos do Rosário, Osman Mahomed replied in the following terms: "Nothing was at stake. I protected him as a friend and brother".

The Prosecution insisted on the question, but the declarant also insisted on the answer: "Nobody asked me to protect António Carlos do Rosário. I did it because he was my friend". The declarant also said that he was aware that he was making false statements before the authority. When questioned by OAM on how he became aware of the need to protect Antonio Carlos do Rosário, the declarant did not give a clarifying answer. But at the insistence of the judge, Osman Mahomed eventually admitted that he protected his friend to prevent him from losing the property.

Confronted with Zulficar Ahmad's statements that he was one of those responsible for hosting Txopela (one of the companies benefiting from the "hidden debts" money) into the office where the real estate brokerage company operated, the declarant stated that he never became aware of the facts. "Our company was operating in a business centre. It is possible that Txopela also leased office in the same building. But I was not aware that Txopela was functioning in our offices."

At the end of the hearing, OAM lawyer Vicente Manjate requested that copies of the statement of Osman Mahomed be made so



Osman Mahomed

that they could be sent to the Attorney General's Office for prosecution for false statements. The Prosecution representative (Ana Sheila Marrengula) did not object to OAM's

request, although she said she was waiting for Nordin Aboo Bacar's hearing, scheduled for Thursday (20 January), to make a similar request.

Imran Issa was not heard because OAM revoked the order authorising the breach of professional secrecy

Imran Issa, who is a lawyer, was the last declarant to be heard on Monday. After being heard in December 2021, he returned to court to be questioned on facts attributed to defendant Angela Leão. But the lawyer filed a preliminary question: On 29 September 2021, two months before his hearing, he requested OAM to terminate the obligation of professional secrecy for all acts as a lawyer carried out in favour of his former clients cited in the proceedings at issue.

The following day, 30 September, he was notified of the order of the President of OAM accepting the request for cessation of the obligation of professional secrecy in the terms he had requested. "My request was submitted at 9am on 29 September, and at 11am the following day I received the dispatch. Therefore, I had no doubt that the OAM, being assistant to the Public Prosecution in this process, was already awaiting my request".

On 6 and 7 December 2021, the declarant Imran Issa went to court to make a statement, as he had obtained the relevant authorisation from the OAM. "But it seems that my statements caused discomfort within the lawyers' class, so much so that on 13 December I was informed of the revocation of the cessation of the obligation of professional secrecy. The OAM considers that some limits



Imran Issa

of that authorisation were exceeded. But the authorisation I received from the Bar Association did not indicate any limits, so I do not understand what limits the Bar Association refers to in its letter. I will not comment on any facts related to my former clients".

That is, with the revocation of the cessation of the obligation of professional secrecy,

Imran Issa is prevented from commenting on facts alleged against the defendant Angela Leão, since she was her client in the preparatory inquiry stage of the case now under trial. The Public Prosecutor considered the issue raised by the declarant well-founded and concluded that there were no conditions to proceed with his hearing.

OAM contradicts Imran Issa and made the judge angry: "It's is a bad attitude from the Bar Association is doing"

OAM said it did not authorise lawyer Imran Issa to make statements about all his former clients mentioned by him during his hearing on 6 and 7 December 2021. Vicente Manjate said that in the application submitted to OAM on 29 September 2021, Imran Issa mentioned having provided services as a lawyer to one of the defendants (without mentioning his name), as well as to one of the companies named in the case (also without identify the name). At another point, the applicant expressly wrote that he had acted as a lawyer for the defendants Fabião Mabunda and Zulficar Ali Ahmad, in the preparatory inquiry stage of the case now under trial.

"In effect, by authorising the cessation of the obligation of professional secrecy of all acts as a lawyer performed on behalf of his former clients cited in the proceedings, OAM could in no way presume that they were other than those expressly indicated in the application," Vicente Manjate argued.



Vicente Manjate of the OAM



Judge Efigénio Baptista

However, when attaching the favourable order of OAM regarding the request for the breach of professional confidentiality, Imran Issa expressly mentioned the names of people and entities mentioned in the proceedings to whom he had provided legal services, namely António Carlos do Rosário, Ângela Leão, Zulficar Ali Ahmad, Fabião Mabunda and the company Txopela Investments.

“In his statement of 6 and 7 December, the declarant invoked facts related to other defendants and entities not mentioned in his application submitted to OAM and which had nothing to do with the defence of his dignity, rights and interests as a lawyer, namely the defendants António Carlos do Rosário, Gregório Leão and Ângela Leão; as well as the references made to the President of the Republic and his son and also the acts carried out in favour of other companies that he set up at the request of the defendant António Carlos do Rosário.”

By authorising the cessation of the obligation of professional secrecy, even in relation to his former clients expressly named in his application, the OAM did not grant a release of lawyer Imran Issa from all professional duties to which he is bound. “With a view to preventing the repetition of the excessive conduct to

the detriment of the image, nobility and dignity of the legal profession, the OAM decided to revoke the authorisation and ordered copies to be sent to the Jurisdictional Council for the purposes of instruction of the due disciplinary proceedings.”

With regard to the probative value of the statements made by Imran Issa on 6 and 7 December 2021, the assistant requested that they be declared null and void and of no effect insofar as they are excessive to the authorisation granted. The judge dismissed the application, arguing that Imran Issa made such statements after he had been authorised by OAM.

“The Bar deferred Imran Issa’s application on the terms required. It is not true that he has mentioned some names in his application. He cites names of some defendants in the contextualisation. But in the application itself, he does not cite any names. He is asking for the cessation of the obligation of professional secrecy of all acts performed by him as a lawyer on behalf of his former clients named in the proceedings. And the court went to the file to see who these former clients are. And they are António Carlos do Rosário, Ângela Leão, Txopela Investments SA, Zulficar Ali Ahmad and Fabião Mabunda”.

Visibly outraged by the OAM application,

the judge said that lawyer Imran Issa was being persecuted. “This story of disciplinary proceedings against Imran Issa is not from today. Even before his hearing, the Bar asked for copies of defendant Zulficar Ali Ahmad’s statements to initiate disciplinary proceedings against Imran Issa. That is a bad attitude. It is unfair.” The judge did not hide his solidarity with the declarant Imran Issa and offered to testify on his behalf in the disciplinary proceedings brought by the OAM.

For Judge Efigénio Baptista, the board of the OAM revoked the order of termination of the obligation of professional secrecy following the harsh criticism made by some lawyers who were shocked by Imran Issa’s statements. “In the days when Imran Issa was heard, the board of the Bar Association was heavily criticised in this room for having authorised the breach of professional secrecy. Doctors Abdul Gani, Isálcio Mahanjane and Alice Mabota were totally disgusted with the Bar Association board.”


The judge accused the OAM board of being more interested in keeping up a good image, honour and dignity of the legal profession to the detriment of the material truth of a case judging a financial scandal that had and still has serious economic and social consequences for Mozambicans.



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