

TOLLS ON MAPUTO RING ROAD

Acting against the law, Administrative Court suspends injunction and enables the business of the elite in power

- Ministers Osvaldo Machatine and Adriano Maleiane told the Administrative Court yesterday that suspending their joint order setting the rates to be paid in tolls on the Maputo Ring Road could have “serious consequences in the pursuit of public interest.” That is, that it could be detrimental to citizens to postpone the date by which they must start paying the toll rates.



- The Administrative Court reacted on the same day agreeing with the Government: it “annulled” the automatic provisional suspension of the order that sets the toll rates on the Maputo Ring Road. As of today, February 1, thousands of citizens using that Road are obliged to pay toll rates for the sake of both the public interest, the Government and the Administrative Court.

Last week, the Center for Democracy and Development (CDD) submitted to the Administrative Court an injunction for the suspension of the administrative act seeking the suspension of the order published through the Boletim da República Number 10, I Series, which sets the toll rates for Costa do Sol, Zintava, Cumbeza and Matola Gare, on the Maputo Ring Road. The referred order was signed by the Ministers of Public Works, Housing and Water Resources (Osvaldo João Machatine) and of Economy and Finance (Adriano Maleiane).

On Friday, the two Ministers were summoned by the Administrative Court to present their contestation. According to the law on administrative litigation, once the Ministers formally took cognizance of the process, the order fixing the toll rates was automatically suspended until the final decision of the Court, which will declare or not the suspension, with sufficient grounds in light of the law and justice.

In fact, the concessionaire of the Maputo Ring Road, REVIMO - Rede Viária de Moçambique, S.A., was prohibited by law from charging toll rates while the above-mentioned legal proceedings are underway. Article 138(1) of Law No. 7/2014, of 28 February, applicable to the case, states the following: “The administrative body that has received the summons or notification may not initiate or continue the execution of the act, thus being bound by the obligation to prevent, as a matter of urgency, the competent services or interested parties from proceeding or continuing to proceed with the execution.”

Therefore, REVIMO should not start with the collection of toll fees on the Maputo Ring Road while the provisional suspension of the order that set the rates to be collected for the impoverishment of citizens is in force.

However, on Monday morning, January 31, the Government, through the Ministers Osvaldo Machatine and Adriano Maleiane, submitted its contestation to the Administrative Court, requesting an exception from compliance with the rule of automatic provisional suspension of the order fixing the toll rates. As grounds, the two Ministers wrote that the suspension of their order would have “serious consequences for the pursuit of the public interest.” In other words, delaying the start of the collection of toll rates on the Ma-

The Administrative Court’s actions clearly show that it is in thrall to the government and has acted as an “advocate” for the executive power. The Administrative Court discharged itself of its responsibilities to judge actions that have as their object disputes arising from administrative legal relations, as well as contentious appeals lodged against the decisions of the organs of State, their respective holders and agents, as stated in paragraphs a) and b) of Article 229, N° 1 of the Constituição da República de Moçambique (CRM).

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In an extraordinary case of procedural celerity, the Administrative Court issued, on the same day, the order S/N°01/JCC/2022, by which it granted the Government’s request, stating that “the terms leading to the exception to the compliance with the rule of automatic provisional suspension” were “verified. In other words, the Administrative Court upheld the Government’s argument that postponing the start of toll payment on the Ring Road would have serious consequences for the pursuit of public interest.

Only in a State where there is no effective

separation of powers can a Court agree with the argument that citizens would be harmed by postponing the start of toll collection. The Administrative Court’s actions clearly show that it is in thrall to the government and has acted as an “advocate” for the executive power. The Administrative Court discharged itself of its responsibilities to judge actions that have as their object disputes arising from administrative legal relations, as well as contentious appeals lodged against the decisions of the organs of State, their respective holders and agents, as stated in paragraphs a) and b) of Article 229, N° 1 of the Constituição da República de Moçambique (CRM).

On the procedural speed demonstrated by the helpful judges of the Administrative Court, it should be said that in June last year the CDD filed a popular action requesting a declaration of illegality and the consequent suspension of the construction of tolls on the Maputo Ring Road, as well as the need for the Government to promote a public debate on their need and usefulness, including the costs that will be charged to citizens.

Still with regard to the strange procedural speed, it should be remembered that the Administrative Court has not yet made any decision regarding the request submitted by the Attorney General’s Office (PGR) to hold the public managers involved in the illegal loans of more than two billion dollars to the companies ProIndicus, MAM and EMATUM financially responsible. The PGR’s request was submitted in 2018 and to date the Administrative Court has yet to rule on the case.

Seven months later, the Administrative Court still has not ruled on CDD’s request. In fact, its delay was deliberate and aimed to give REVIMO time to complete the construction of the tolls and start with the rates collection. And that is what happened: the tolls were completed and today, February 1st, REVIMO starts with the tolls rate collection. The process of granting the Maputo Ring Road, Maputo-KaTembe Bridge (and connecting roads) and National Road No. 6 to REVIMO was not transparent, because it was done outside the law; the installation of tolls was not preceded by an open and frank public debate. In other words, the citizens who will be affected by this unfair and illegal measure were simply ignored.



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