

LXXI DAY OF THE "HIDDEN DEBTS" SCANDAL TRIAL

Adriano Maleiane says ProIndicus and MAM debts were not registered with the Ministry of Finance

- MMinister of Economy and Finance since January 2015, Adriano Maleiane is the only member of Filipe Nyusi's government to be heard as a declarant in the trial of the "hidden debts" scandal. Interestingly, the Public Prosecutor's Office, represented by newly-distinguished prosecutor Ana Sheila Marrengula, did not ask a single question to the only member of the Government constituted as a declarant.



Adriano Maleiane, Minister of Economy and Finance

- At the end of the session, Judge Efigénio Baptista praised the collaboration of the Minister of Economy and Finance, highlighting his humility and prompt collaboration with the justice institutions, either by providing requested documents, or by providing additional information.

Adriano Maleiane said that when he assumed the position of Minister of Economy and Finance, he did not receive from his predecessor (Manuel Chang) the information regarding the State guarantees issued in favor of ProIndicus and MAM, besides the fact that the information had not been registered in the National Treasury Directorate. The governor only became aware of the debts of the two companies in late 2015, specifically when he was structuring EMATUM's debt.

The information was provided to him by the financing banks, namely Credit Suisse and VTB. Adriano Maleiane sought more information from the former Minister of Finance, and Manuel Chang informed him that the debts and guarantees of ProIndicus and MAM had been treated as secret, since they concerned the security sector.

This information was later confirmed by the former General Director of the State Intelligence and Security Service (SISE), Gregório Leão, and by the former CEO of the three companies, António Carlos do Rosário, in a meeting held at Adriano Maleiane's request. The declarant clarified that the files relating to the commercial matters of the companies are not held by the Ministry of Finance, but by the shareholders. What should be in the files of the National Treasury Directorate is the registration of the guarantee and debt.

Asked by the assistant in the case, the Bar Association of Mozambique (OAM), if he was aware that the Ministry of Finance had appointed, inherently, the former National Treasury Director Maria Isaltina Lucas as a non-executive director of EMATUM in order to monitor the progress of the company, the declarant replied in the negative.

"There is no reference in the Ministry of Finance or in the legislation of the state business sector that could suggest that the Minister of Finance should indicate people by inherence of functions for the boards of directors of companies that have state guarantees. Since this indication is not institutional, but rather discretionary by the Minister himself, it had nothing to report, because there is no legal mechanism for this."

One of the most discussed issues during the trial was the amount of more than 43 million meticais that the National Treasury Directorate transferred to Txopela Investments, a company described by the Public Prosecutor's Office as the vehicle used by the defendant António Carlos do Rosário to receive the bribes paid by the Privinvest group. The OAM asked the Minister of Economy and Finance if he had infor-



mation about the purpose of this operation, to which he answered negatively.

In this sense, the assistant in the case requested the Court to issue an order to the Ministry of Economy and Finance to clarify how the company Txopela Investments received the amount of 43 million meticals from the National Treasury Directorate. But the Public Prosecutor believes that the matter is not the subject of the case under trial and argued that it should be dealt with in its own seat. The Court promised to make a statement at a later date.

To the question whether the Risk Management Office of the Ministry of Economy and Finance did not detect that the companies (EMATUM, ProIndicus and MAM) were at risk of default, the declarant clarified that the entity was created in December 2015, time after the emergence of the debt problems. "That office creates a system to collect information from various sectors to monitor the management of fiscal risks."

On the USD 500 million that was supposedly

used to purchase military hardware for the Defense and Security Forces (FDS), Adriano Maleiane said that the new government does not have the history of the past. "What we have is what is on record. As the new Minister, the information I took is what is registered in the General State Account, namely that the debt of USD 850 million was divided into USD 350 million for the State and USD 500 million for the company. Then a second assessment was made in 2015, which said that the division was different: the non-commercial material added up to USD 500 million and USD 350 million was EMATUM's commercial debt."

The governor recalls that in 2015 he was questioned in Parliament if EMATUM was in a position to pay the debt, to which he replied that the company did not have the capacity to honor the commitment of USD 200 million per year. Therefore, it was necessary to restructure the debt. It was necessary to invite investors to buy the bonds, trusting the country and using appropriate channels in the international market."

With the restructuring, the state assumed the total debt of USD 850 million, and is paying USD 76 million annually in two tranches. According to the declarant, the Mozambican state is not paying anything regarding the debts of ProIndicus and MAM, as they are in

litigation in international courts.

To a question from OAM, the Minister of Economy and Finance assumed that he did not ask for any legal opinion from the Attorney General's Office (PGR) for the restructuring of EMATUM's debt. "It would make no sense to

ask for a legal opinion because restructuring is nothing more than a request to creditors to extend the deadline for payment. There seemed to us to be no need to ask the Attorney General's Office whether or not we should pay what we promised to pay."

Maleiane explains (in)compliance with CC ruling voiding EMATUM's guarantee and debt

In May 2019, the Constitutional Council (CC) declared the guarantee issued by the State in favor of EMATUM void, but the Government continued with the process of restructuring EMATUM's debt, including its payment. Confronted with the issue, Adriano Maleiane said that the best way to comply with the ruling was what the Government did. "We were negotiating with the investors and we should respect that to avoid putting the State in a situation of a negotiator in bad faith. This is because the negotiation with the creditors had been going on since May 2019 and the Constitutional Council ruling that considers EMATUM's guarantee and debt void is from June of the same year."

Due to the Constitutional Council's decision, the Government introduced a new clause in the agreement now being negotiated to protect the interests of the state. The new clause provides that if at any time the Republic of Mozambique finds that those who bought the bonds were in bad faith in the exchange and restructuring, the state has the right to get back the money it paid and to demand compensation for damages and losses.

"The best way to implement the effects of the Constitutional Council's ruling was to ask for the restructuring of the debt and include the aforementioned clause. This is because we understood that only in this way would we guarantee that the advances made by the Mozambican state could be returned if it is concluded that there was bad faith on the part of the bond buyers."

When asked if he knew the fate of the assets of EMATUM, ProIndicus, and MAM, all of which have been dissolved, Adriano Maleiane clarified that the three companies are in the process of bankruptcy and liquidation, so the question should be answered by the president of the liquidation commission. About the state in which he found the three companies when he assumed the portfolio of Minister of Economy and Finance, the declarant replied that the companies are not under the jurisdiction of the Ministry he heads, so he cannot address the issue.

Asked if he had more or less an idea of the



"It was a judicial decision, it was the courts that decided for the dissolution of the companies." The governor also explained that the General Finance Inspectorate, an entity under his tutelage, has no mandate to supervise EMATUM, ProIndicus and MAM, because they are private companies. "Only an external auditor, as happened with EMATUM, could do this exercise."

loss that the state will incur if the civil actions launched in London result unsuccessful, the Minister of Economy and Finance replied that he believes the state will win. Maleiane added that the state has not entered to lose and trusts the Public Prosecutor's Office, its lawyer.


On the decree of bankruptcy and dissolution of EMATUM, On the decree of bankruptcy and dissolution of EMATUM, ProIndicus and MAM, the declarant explained that the decision was neither by the government nor by the International Monetary Fund (IMF). "It was a judicial decision, it was the courts that decided for the dissolution of the companies." The governor also explained that the General Finance Inspectorate, an entity under his tutelage, has no mandate to supervise EMATUM, ProIndicus and MAM, because they are private companies. "Only an external auditor, as happened with EMATUM, could do this exercise."



EDITORIAL INFORMATION

Property: CDD – Centro para Democracia e Desenvolvimento
Director: Prof. Adriano Nuvunga
Editor: Emídio Beula
Author: Emídio Beula
Team: Emídio Beula, Julião Matsinhe, Dimas Sinoa, Américo Maluana
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

PROGRAMMATIC PARTNER



FINANCING PARTNERS

