

JUDGMENT ON THE “HIDDEN DEBTS” SCANDAL

Bar Association shoots at Efigénio Baptista: “the judge is tyrant and authoritarian”

- In a Democratic Rule of Law, the courts are, so to speak, the last redoubt of defense and protection of the rights and freedoms of citizens, as well as the legal interests of different bodies and entities with legal existence. Therefore, judges have the duty to perform their functions with honesty, seriousness, impartiality and dignity, and the duty to maintain professional secrecy, as stated in the Statute of Judicial Magistrates. In other words, judges are required, in addition to reputable legal knowledge, to conduct themselves beyond reproach in the exercise of their functions.





These are qualities that are not abundant in the figure of the judge who is heading the trial of the biggest financial scandal in Mozambique. Yesterday, the Mozambican Bar Association (OAM), assistant in the “hidden debts” case, called the press to publicly denounce what it considers to be a tyrannical conduct of Judge Efigénio Baptista in the handling of the trial that began on August 23.

The lawyers believe that Efigénio Baptista has had a “behavior of attack against the lawyers’ class, who are not allowed to discuss the issues freely and under the terms of the law. Those who follow the sessions of the hearing for discussion and trial are aware of the way that Judge Efigénio Baptista has limited the intervention of the lawyers for the defense and the assistant in the case. And he rarely does this on the basis of the law, but by using his power of decision.

This was the case last Friday when he expelled two lawyers, namely Salvador Kamate and Jaime Sunda, from the courtroom. The two lawyers were arguing against the hearing, as declarant, of Fanuel Paúnde, a lawyer by profession who at the time of the facts on trial provided legal services to the defendant Renato Matusse. In these terms, Salvador Kamate insisted that the OAM Statutes (which have the force of law) hold that a lawyer should not be heard as a declarant in a case where he may reveal information he obtained in that capacity.

Instead of letting the lawyer speak freely in defense of his constituent (Renato Matusse), the judge threatened to order his removal from the room, to which Salvador Kamate responded by saying that he was willing to



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leave the session. Nevertheless, the judge ordered that a police force be called to remove the lawyer. “It is not reasonable or understandable for the judge to call the police force against a lawyer who is peacefully leaving the courtroom, after being ordered to leave as happened in that room. This is what has been happening, he [the judge] wants to give the impression that he knows more than the others, that the others don’t know anything, they are just there to get in the way, just to prevent the discovery of the material truth¹”, complained the OAM’s chairman, Duarte Casimiro.

¹ <https://www.opais.co.mz/oam-diz-que-efigenio-baptista-e-tirano-e-prejudicial-ao-julgamento-das-dividas-ocultas/>

The OAM also repudiates the attitude of judge Efigénio Baptista of resorting to threatening lawyers. “In a clear abuse of power, the judge takes away the lawyers’ right to speak and tells them to shut up. What is worrying is the lack of ethics, lack of professional deontology and lack of integrity. In the eyes of the lawyers, the judge’s actions are detrimental to the trial, because in some cases he appears to have already produced the sentence before the end of the discussion of evidence and trial phase.

Last January, the judge reacted arrogantly to criticism about the quality of the declarants being heard in the trial by claiming that his critics did not understand the law at all. They questioned, for example, the rationality of the court that, on the one hand, deems rel-

evant for the production of material evidence to hear a trader who sold construction material to the defendant Angela Leão and, on the other hand, deems unnecessary to question the former Minister of National Defense (Filipe Nyusi), a figure who had a direct participation in the creation and management of the companies involved in the “hidden debts.

“To say that there is no point in hearing the declarants underway is to not understand the law. And as such, it is my obligation as a judge to also teach the audience about legal matters,” the judge reacted. On this point, the OAM’s bastonary argued yesterday that it is not the judge’s role to lecture, “but over and over again that is what is happening.” In January, the OAM again requested the hearing of the current President of the Republic, the

only declarant who, having been heard in the preparatory instruction, is not expected to be heard at this stage of the trial. The assistant considered the hearing of Filipe Nyusi indispensable and essential for the discovery of material truth.

If surprised, Judge Efigénio Baptista rejected the request for hearing of Filipe Nyusi as a declarant, arguing that “the requested diligence is unnecessary and aims to delay the progress of the case. In truth, the judge allied himself with the Public Prosecution Service in the undeniable mission to defend the image of the President of the Republic, undermining all attempts by the defense lawyers and the assistant in the case to take Filipe Nyusi to the tent set up in the Maximum Security Prison, known as BO.

CDD had already warned about the posture of Judge Efigénio Baptista

In April 2021, CDD, through a publication of Mozambican Politics ², questioned the choice of Efigénio Baptista to preside over the court responsible for judging the hidden debts scandal. Through Deliberation No. 71/CSMJ/CP/2021 of March 31, the Superior Council of the Judiciary (CSMJ) appointed Efigénio José Baptista to the category of acting Judge of Law B, and transferred him from the 7th section to the 6th section of the Judicial Court of the City of Maputo (TJCM), exactly where the “hidden debts” case was taking place.

To this end, the CSMJ first transferred Dr. Ivandra Uamusse, Judge B, from the 6th to the 10th section of the TJCM. Ivandra Uamusse was the judge who presided over the first judicial acts of the “hidden debts” case. But she was “removed” from the 6th section to allow that in the hearing stage of discussion and trial, the case was led by Efigénio Baptista. Born in Sofala, this judicial magistrate began

his functions in the Judicial Court of the District of Caia (in Sofala), having passed successively through the Judicial Courts of the districts of Manica and Tete (all of them at district level) until his most recent transfer to the TJCM (therefore, of provincial rank).

In the District of Caia, where he began his career, he was the target of popular protests, and a group of demonstrators set fire to his service residence. In Manica, unknown individuals invaded his residence on duty and stole a laptop computer, and then defecated at the entrance to the courthouse.

He has already been tried and convicted twice in Chimoio: first, to a prison sentence of five (5) months imprisonment, replaced by a fine, for threatening a citizen who owned a hotel establishment that he had ordered to be closed; the second time, he was sentenced to three (3) months imprisonment, replaced by a fine, for bodily harm to the same victim.




² <https://cddmoz.org/julgamento-do-caso-das-dividas-ocultas-sera-dirigido-por-um-juiz-de-conduta-questionavel-2/>



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