



Tolls on the Maputo Ring Road and Maputo-KaTembe Bridge: the big challenge for Minister Carlos Mesquita

- The big question is how the new Minister of Public Works, Housing and Water Resources will deal with the issue of tolls on the Maputo Ring Road. The fact that thousands of people living in the Maputo metropolitan area are paying the tolls does not mean that Carlos Mesquita cannot review the illegal decisions of his predecessor, João Osvaldo Machatine.

- Carlos Mesquita still has the opportunity to revise downwards the unfair fees charged on the Maputo-KaTembe Bridge toll. To fix a fee of 160 meticaais per light vehicle is shameful, to say the least, and shows a lack of consideration for the citizens who live in KaTembe.



A transport and logistics businessman, Carlos Alberto Fortes Mesquita “disconnected himself” from the business in 2015, when he was invited to occupy the position of Minister of Transport and Communications. Before long, companies linked to him were associated with state business, raising the age-old problem of conflict of interest. But he survived the demands for his resignation, as he was close to the President of the Republic.

After serving his term in Transport and Communications, Carlos Mesquita was appointed, in 2020, to lead the Ministry of Industry and Commerce. Two years later, he leaves to occupy the position of Minister of Public Works, Housing and Water Resources, a strategic sector with enormous challenges: construction and rehabilitation of roads and bridges; housing for young people, provision of drinking water; and management of watersheds to avoid droughts and cyclical flooding.

But the biggest challenge that Carlos Mesquita inherited from his predecessor (João Osvaldo Machatine) are the tolls on the Maputo Ring Road and the high prices charged on the Maputo - KaTembe Bridge, where a li-

ght vehicle pays 160 meticaais per trip.

All the processes that culminated with the installation of tolls on the Maputo Ring Road (a road built with public funds) were not transparent, from the extinction of the public company Maputo Sul, which was responsible for the Maputo-KaTembe Ring Road and Bridge, to the creation of the private company REVIMO; the concession of the toll business to REVIMO; to the fixing of the fees to be paid.

To safeguard the right of citizens to development and social justice, CDD unleashed a campaign in the first half of 2021 against the tolls on the Maputo Ring Road, but the former Minister of Public Works, Housing and Water Resources always assumed an arrogant posture, never opening up to dialogue. And because the construction of the tolls was advancing and João Osvaldo Machatine showed no signs of opening up for a frank dialogue, in June 2021 the CDD filed a Popular Action in the Administrative Court to force the suspension of the works.

In the People’s Action, the CDD asked for a declaration of illegality and the consequent immediate suspension of all operations to

build tolls on the Maputo Ring Road, as well as the need for the Administrative Court to force the Government and other entities to promote a public debate on the need and usefulness of the tolls, including the costs to be charged to citizens. But the Administrative Court ignored the CDD’s request and remained silent, an attitude aimed at making it possible to conclude the toll construction work. To this day the Administrative Court has not ruled on the matter.

Once the four (4) tolls were completed, a date of February 1st was set for the start of the collection of the fees. The CDD appealed to the Administrative Court and filed, on January 19, 2022, an injunction to suspend the order of the Ministers of Public Works, Housing and Water Resources and of Economy and Finance setting the toll fees for Costa do Sol, Zintava, Cumbeza and Matola Gare, on the Maputo Ring Road.

Before the decision of the Administrative Court and in an arrogant attitude typical of those who confuse governing with the imposition of orders, João Osvaldo Machatine

came to public declaring that the collection of toll fees on the Maputo Ring Road was unavoidable.

On January 31, the former Ministers Osvaldo Machatine and Adriano Maleiane submitted their objection to the Administrative Court, requesting an exception from compliance with the rule of automatic provisional suspension of the order setting 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 fees on the Maputo Ring Road would have serious consequences in the pursuit of the public interest.

In an extraordinary case of procedural celerity, the Administrative Court issued, on the same day, order S/Nº01/JCC/2022, in 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 if the start of toll collection were postponed. The Administrative Court’s action clearly



shows that it is in thrall to the government and has acted as an “advocate” for the executive branch.

The big question is how Minister Carlos Mesquita will deal with the issue of tolls on the Maputo Ring Road. The fact that thousands of people living in the Maputo metropolitan area are paying the tolls does not mean that the new Minister of Public Works,

Housing and Water Resources cannot review the illegal decisions of his predecessor, João Osvaldo Machatine.

Carlos Mesquita also has the opportunity to review downwards the unfair fees charged for the Maputo-KaTembe Bridge toll. To fix a fee of 160 meticaís per light vehicle is shameful, to say the least, and shows a lack of consideration for the citizens who live in KaTembe.

Mesquita should review process of granting the Maputo Circular and Maputo-KaTembe Bridge to REVIMO

It was in December 2019 that the government awarded a 20-year concession for the Maputo Circular Road, the Maputo-KaTembe Bridge (and connecting roads) and National Road No. 6 (connecting Beira to Machipanda, on the border with Zimbabwe) to REVIMO, a limited liability company incorporated in September 2018 with a share capital of 660 million meticaís, fully subscribed by the Fundo de Estradas (Road Fund), until then the sole shareholder.

Since 2021, REVIMO has new shareholders, namely the National Institute of Social Security (INSS) and KUHANHA - the management company of the pension fund for Bank of Mozambique employees. The new shareholders control 15% each, leaving the Road Fund with 70%. The entry of new shareholders was secret. The operation was done at the Mozambique Stock Exchange (BVM), through a public offering.

The creation of REVIMO was a strategy to allow the entry of private parties in the management of tolls installed on roads built



with public funds. The three road projects were financed by China's Exim Bank to a total value of about USD 1.5 billion, of which USD 785 million for the Maputo-KaTembe Bridge and connecting roads, USD 400 million for National Road No. 6 and USD 300 million for the Maputo Ring Road.

The three roads were directly awarded to REVIMO for a period of 20 years. However, the Law 15/2011, of August 10, which regulates the contracting, implementation and monitoring of public-private partnership projects, establishes, in paragraph c) of number 1 of article 22, a maximum of 10 years for management contracts of projects in operational status. And the Ring Road, the Maputo-KaTembe Bridge and National Road No. 6 were operational when in 2019 they were awarded to REVIMO for a period of 20 years, twice the term set by law for management contracts.

The contract term of the public-private partnership venture is determined taking into account its economic-financial attractiveness, the time required for its implementation, and the period of recovery of the invested capital. The circumstances under which the contract term may be extended are also set out in Law 15/2011 of August 10.

Article 22(3) states that the Government may, by addendum to the contract, authorize the extension of the legally established term for the time necessary to compensate for: a) additional investments made at the request of the Government and agreed in an addendum to the contract approved by the competent authority; b) the practice of prices or tariffs, set by the Government, below cost price and the agreed profitability margin; c) mitigation of the effects of force majeure events that have occurred.

So far it is difficult to understand which circumstances led the Government to extend from 10 to 20 years the term of the management contract of the three roads under concession to REVIMO. First of all because the concessionaire did not make any major investments, since it received the roads in an

operational state; there was no force majeure event that caused major damage to the roads; and finally, the fees charged at least for the Maputo-KaTembe Bridge tolls (including on the connecting roads) and on National Road No. 6 should not be below the profitability margin. The tariffs to be charged on the Maputo Ring Road have not yet been announced.

In addition to having extended beyond the legal limit the duration of the concession contract for the three roads, the Government has used the direct adjustment modality, violating the legal regime for contracting public-private partnership undertakings. Under the terms of paragraph 1 of Article 13 of Law 15/2011, of 10 August, the general legal regime for contracting public-private partnership ventures is that of public tender, applying, subsidiarily, the rules governing public contracts.

Only in ponderous situations and duly grounded and as a measure of last resort subject to the prior express authorization of the Government, the contracting of the public-private partnership undertaking may, exceptionally, take the form of negotiation and direct adjustment. In the case at hand, the Government has not presented any grounds that would justify the use of the direct award modality in the concession of the Ring Road, Maputo-KaTembe Bridge and National Road No. 6 to REVIMO.

In fact, in February 2019, the Government extinguished the South Maputo Development Company, abbreviated as Maputo Sul E.P, which had been created in August 2010 to develop and manage the Maputo Circular Road and Maputo-KaTembe Bridge projects. At the time, the Minister of Public Works, Housing and Water Resources, Osvaldo João Machatine, justified the extinction of Maputo Sul saying that the company had completed the mission for which it was created¹.

The Government decided that the National Road Administration (ANE) would be responsible for maintenance, while the Road Fund

would ensure the profitability of the two projects. However, 10 months later, specifically in December 2019, the Government decided to grant a 20-year concession for the Maputo Ring Road, the Maputo-KaTembe Bridge and National Road No. 6 to Rede Viária de Moçambique (REVIMO).

The "end of the mission" argument used to justify the extinction of the Maputo Sul public company is fallacious and opportunistic. In addition to being responsible for the construction, management and maintenance of the Maputo Ring Road and the Maputo-KaTembe Bridge, Maputo Sul's mission was to promote the development of the southern part of the Maputo Bay, especially the Municipal District of KaTembe. But Maputo Sul was extinguished before it even developed a single project in KaTembe.

What is more: When it was extinguished, Maputo Sul was already responsible for the tolls installed on the Maputo - KaTembe Bridge and on the KaTembe - Ponta D'Ouro road in Matutuine, which means that the company was gaining experience in the toll business. Therefore, its extinction was aimed at passing the profitable toll business to REVIMO, a public limited company that in the future may include shareholders connected to the ruling political elite.

The entire process of granting the three toll roads to REVIMO flagrantly violated Law 15/2011, of August 10, which regulates the contracting, implementation and monitoring of public-private partnership projects. This law establishes that "in any of the modalities of contracting public-private partnerships should observe the principles of legality, purpose, reasonableness, proportionality, pursuit of public interest, transparency, publicity, equality, competition, impartiality, good faith, stability, motivation, integrity and suitability, accountability, sound economic and financial management, celerity and other applicable principles of Public Law" (paragraph 6 of Article 13 of Law 15/2011 of 10 August).

¹ <https://cartamz.com/index.php/economia-e-negocios/item/1074-governo-extingue-empresa-publica-maputo-sul>



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