



**International Convention on the  
Protection of the Rights of  
All Migrant Workers and  
Members of Their Families**

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**Committee on the Protection of the Rights of All  
Migrant Workers and Members of Their Families**

**Initial report submitted by Mozambique under  
article 73 of the Convention pursuant to the  
simplified reporting procedure, due in 2014\***

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## Contents

	<i>Page</i>
List of Acronyms.....	3
I. Contextualization and general information .....	4
II. Entities involved in the implementation of the Convention .....	6
III. Convention and migration process .....	9
IV. Data, statistics and official estimates .....	19

## List of Acronyms

CNDH:	National Commission on Human Rights
COMAL:	Commission for Mediation and Labor Arbitration
CTM:	United Nations Convention on the Rights of All Migrant Workers and Members of Their Families
CRM:	Constitution of the Republic of Mozambique
UDHR:	Universal Declaration of Human Rights
MGCAS:	Ministry of Gender, Child and Social Action
MINT:	Ministry of Interior
MITESS:	Ministry of Labor, Employment and Social Security
MJCR:	Ministry of Justice, Constitutional and Religious Affairs
IOM:	International Organization for Migration
ILO:	International Labor Organization
ICCPR:	International Covenant on Civil and Political Rights
SADC:	Southern African Development Community
SENAMI:	National Service of Migration
SERNIC:	National Criminal Investigation Service
PIC:	Criminal Investigation Police
SIMIGRA:	Management System of the Migratory Phenomenon
RSA:	Republic of South Africa

## I. Contextualization and general information

1. The purpose of this document is to present the Report of the Government of Mozambique to the Committee on Migrant Workers, within the framework of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CTM) ratified in 2012, through resolution No. 1/2012 of 26 June.
2. The Mozambican State, in the context of the responsibility for the promotion of human rights, assumes within international and multilateral organizations, international treaties, conventions and protocols obligations that fulfil with the required duty at national and internationally level.
3. Mozambique is a State Party and signatory of several regional and international human rights instruments, with emphasis on the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the United Nations Convention on the Rights of All Migrant Workers and Members of their Families (CTM), the African Charter on Human and Peoples' Rights, among others.

### Legal Framework

4. Mozambique is a State Party and signatory of several regional and international human rights instruments, with emphasis on the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the United Nations Convention on the Rights of All Migrant Workers and Members of Their Families (CTM), the African Charter on Human and Peoples' Rights, among others. It should be noted that the African Heads of State signed the Protocol on the Free Movement of Persons and Goods in Africa, although it has not yet been ratified by any of the States, it represents an effort by African States to protect the rights of migrant workers and members of their families.
5. The Constitution of the Republic of Mozambique (CRM) enshrines in Article 17 (2) that "The Republic of Mozambique accepts, observes and applies the principles of the Charter of the United Nations and the Charter of the African Union." in Article 18, that "International treaties and agreements, validly approved and ratified, shall be in force in the Mozambican legal order after their official publication and as long as they bind the State of Mozambique internationally" and that "The norms of international law have in domestic juridical order the same value as assumed by the infraconstitutional normative acts emanating from the Assembly of the Republic and the Government, depending on the respective form of reception."
6. In this regard, all provisions of international law on the subject ratified by the country are enforceable and enforceable.
7. The Republic of Mozambique establishes, within the framework of its domestic legal system, relevant national legislation regarding the protection of migrant workers and members of their families, namely:

#### In the Constitution of the Republic

- (a) Article 11 al. e) on the defense and promotion of human rights and equality of citizens before the law;
- (b) Article 17, paragraph 1, which stipulates that the Republic of Mozambique establishes relations of friendship and cooperation with other States on the basis of the principles of mutual respect for sovereignty and territorial integrity, equality, non-interference in internal affairs and reciprocity of benefits; and
- (c) Article 35, which enshrines the Principle of Universality and Equality, where all citizens are equal before the law, enjoy the same rights and are subject to the same

duties regardless of color, race, sex, ethnic origin, place of birth, religion, degree of education, social position, marital status of the parents, profession or political choice.

### Other Legislation

(a) Labor Law — Arts.30, 31 et seq. (Deal with the emigrant worker and recommend equal rights of nationals, differentiating the scope of hiring that is by way of authorization, art.33);

(b) Law No. 4/2014, of 5 February, which creates the National Migration Service;

(c) Law no. 5/93, of December 28th, which approves the Legal Regime applicable to foreign citizens, establishing the respective rules of entry, stay and exit of the country, the rights, duties and guarantees;

(d) Decree No. 108/2014, of December 31, approving the Legal Regime applicable to foreign citizens, establishing the respective rules of entry, stay and exit of the country, the rights, duties and guarantees;

(e) Law No. 7/2011, of January 11, which approves the Voluntary Labor Regime;

(f) Decree-Law No. 2/2011, of 19 October, approving the employment of foreigners in the Public Service;

(g) Decree-Law No. 2/2014, of December 2, establishing the contractual and special regime applicable to the Rovuma Basin Gas Project;

(h) Decree no. 63/2011, of 7 December, approving the Regulation on the Hiring of Citizens of Foreign Nationality in the Oil and Mines Sector;

(i) Decree No. 37/2016 of 31 August, which approves the Regulation of Mechanisms and Procedures for the Hiring of Citizens of Foreign Nationality:

- This instrument applies to the hiring of foreign citizens by national and foreign employers;
- The regulation is extended to the members, administrators, directors, managers, agents and entities representing foreign companies in relation to the workers or delegates of their representations; and
- Private employment agencies may not hire foreign nationals for occasional assignment or assignment and may contract for the operation of the same under legally established terms;

(j) Decree No. 36/2016, of August 31, approving the Regulations on the Licensing and Operation of Private Employment Agencies, which was punctually revised by Decree 16/2018 of April 23, which guarantees the protection of national workers.

8. In this respect, there are bilateral and multilateral agreements with other countries on the rights of migrant workers and members of their families, including:

(a) Labor Agreement of 1964, which regulates the labor relationship of Mozambican workers in the mines of the Republic of South Africa and deferred payment in national territory;

(b) Memorandum of Understanding signed with the Government of South Africa in 2015 to facilitate dialogue on improving the working conditions of Mozambicans in service in the South African Republic (RAS);

(c) Administrative Agreement between Mozambique and Portugal for the implementation of the Social Security Convention (already ratified by the two countries) signed on July 5, 2018, allowing the communication of rights between social security systems, ie the continuity of the contributory Mozambicans enrolled in the Portuguese Social Security and Portuguese workers enrolled in the Mozambican system, thus guaranteeing the enjoyment of acquired and training rights;

(d) In August 2014, SADC Heads of State and Government signed the SADC Protocol on Employment and Work, which states that Member States will adopt measures

to facilitate the coordination and portability of the right to benefits social security, in particular through the adoption of appropriate bilateral and multilateral agreements guaranteeing equal treatment of foreign nationals, aggregation of periods of insurance, preservation of insurance rights, preservation of rights and benefits acquired, portability of benefits and institutional cooperation;

(e) Bilateral Convention on Social Security between the Republic of Mozambique and the Federative Republic of Brazil, signed in 2017, with a view to communicating rights between social security systems; and

(f) Memorandum of Understanding between the Ministry of Labor, Employment and Social Security and the recruiting agency TEBA, which provides for the deferred payment to Mozambican mining workers through a direct transfer to their bank accounts, in national territory, in randes, signed on 12 April 2016.

9. In addition to the aforementioned legislation, policies and strategies related to the rights of migrant workers and members of their families have also been adopted, notably the Employment Policy aimed at harmonizing existing sectoral approaches and clearly articulating promoting employment, structured in eight pillars, one of which is Human Capital Development, which will include Measures on Migration Work, Knowledge Transfer and “know-how”, defining the following lines of action: identifying opportunities and encouraging the emigration of Mozambicans to other countries and create conditions for the reintegration into the national labor market of migrant workers as well as facilitating the immigration of experienced specialists to the priority sectors of the economy and ensuring the transfer of knowledge, skills and competence of expatriates to nationals.

## **II. Entities involved in the implementation of the Convention**

10. Different public entities such as MITESS, RCM, Ombudsman and CNDH are distinguished in the process of implementing the Convention, each of which plays a relative role in migration work. The civil society organizations, private sector, the syndicates, and development partners also play a very important role in the process.

11. Among several factors contribute to provide the environment of migratory management and consequently of the relevance of public entities in due action, the following:

(a) By its geographical location, Mozambique has been used as a corridor for the entry and exit of many foreign citizens, to other countries in search of better living conditions;

(b) Mozambique has also been elected by foreign nationals as a destination country, many of them end up staying in the country seeking legal or illegal employment;

(c) Motivated by the flourishing of the national economy and the emergence of great employment opportunities, particularly in the mining and quarrying industry;

(d) Mozambicans emigrate to other countries in search of better living conditions, with greater emphasis on the Republic of South Africa.

12. The MJACR is the institution of the Government responsible for intergovernmental coordination with regard to the implementation of the Convention, assisted by several State institutions, among which MITESS, the latter being responsible:

(a) Prepare the Migration Work Policy;

(b) Ensure compliance with norms and procedures in the recruitment and hiring of immigrant workers;

(c) Assisting and supporting immigrant workers in their working relationships;

(d) Design, in articulation with other entities, measures that guarantee the transfer of knowledge and skills of the migrant worker;

(e) Promote the design of social reintegration programs for former immigrant workers and their families;

(f) Propose the revision of bilateral agreements on the work of Mozambicans abroad; and

(g) Guarantee the transfer of remittances from migrant workers.

13. Because of its geographical location, Mozambique has been used as a corridor for the entry and exit of many foreign citizens to other countries in search of better living conditions.

14. Motivated by the flourishing of the national economy and the emergence of large employment opportunities, particularly in mining and quarrying, Mozambique has also been elected by foreign citizens as the destination country, many of them end up staying in the country looking for work legally or illegally.

15. Mozambicans migrate to other countries in search of better conditions, with greater emphasis on the Republic of South Africa.

16. In the context of Public Sector reforms, the Government through MITESS, with a view to establishing a coherent and comparable system of data collection, has been triggering several actions around the use of Information and Communication Technologies, as a tool to serve each the citizen better.

17. The Migratory Phenomenon Management System, SIMIGRA, has been implemented, which allows the management of the labor migratory phenomenon in relation to the hiring of foreign citizens in the country and the registration of Mozambicans working abroad and control of labor law. The information generated is made available to the public through the Labor Market Statistical Bulletin, prepared by the National Labor Market Observation Directorate.

18. Launched in 2017, THE EMPLOYMENT PORTAL, an electronic platform for demand and supply management in the labor market, which is a mechanism to disseminate employment opportunities in the country of nationals in the diaspora.

19. At the end of the year, a ceremony is held annually to greet the President of the Republic for the Mozambican community residing abroad, preceded by sectoral meetings where these communities have the opportunity to present their concerns and learn about their work developed by the Government.

20. In order to establish mechanisms for strengthening the national system for the promotion, protection, protection and improvement of the human rights situation in Mozambique, two national human rights institutions were established in accordance with the Paris Principles, namely:

(a) The Ombudsman, whose mandate is the guarantee of citizens' rights, the defense of legality and justice in the actions of the Public Administration. The Ombudsman is elected by the Assembly of the Republic being independent and impartial and evaluates the cases submitted to him by producing recommendations to the competent organs to repair or prevent illegalities or injustices within his mandate;

(b) The National Human Rights Commission, as an institution of public law that enjoys administrative and functional autonomy in relation to the other organs of the central and local power of the State. Its function is, in general, to promote and to protect human rights in the country. Meaning that all citizens who have their rights violated can approach the CNDH to present the right violated, to this entity that appreciates the cases submitted and coordinate administrative actions aiming at the replacement of the rights and damages resulting from such breach.

- In addition to its general mandate, the Government, through Resolution 23/2013, of 3 May, attributed to the CNDH a specific mandate to act as a national preventive mechanism against torture and other cruel, inhuman or degrading treatment or punishment. Under this mandate, the CNDH has been making regular visits to detention centers in the country. This mandate complements and reinforces the

inspections carried out by government institutions in their day-to-day activities, with emphasis on the Attorney General's Office;

- The CNDH also carries out visits to the refugee center in Maratana and other centers where migrant workers and members of their families can be found waiting for the regularization of their situation, in order to assist them in case of need; and
- The CNDH also has the functions of promoting, protecting and defending human rights in the country through human rights education programs and collaborates with the competent authorities in adopting measures in the area of legal and judicial assistance to citizens financially disadvantaged in causes concerning human rights violations.

21. The provisions of the Convention are enshrined in the Migrant Workers' Regulations, which are disseminated in seminars with foreign companies and non-governmental organizations, distribution of information material to chambers of commerce, embassies and other relevant organizations, as well as distribution of material information at border posts and potentially migrant workers' communities. A seminar has recently been organized to raise awareness of the Convention and to identify better ways of incorporating it into the internal legal order. The seminar organized by the Office of the United Nations High Commissioner for Human Rights, with the support of the International Organization for Migration (IOM) and the International Labor Organization (ILO), also identified the need for greater dissemination of the Convention through production of more communication and information material, including in local languages, and the use of community radios and other community media.

22. In order to contribute to a better understanding of the subject, training has been carried out on MITESS staff at central, local and delegate levels in the diaspora, on legislation governing the hiring of foreign workers as well as on matters relating to compensate for occupational diseases in order to better process the national workers in the different jobs abroad, especially the mines of RAS, thus guaranteeing their rights. The training seminar referred to in the previous paragraph, which involved employees from different relevant areas of work, including trade unions, migration services, also contributes to greater knowledge on the subject.

23. Civil society organizations and other social partners working on the rights of migrant workers have been involved in all actions relevant to the knowledge and application of the Convention and other related matters, including the Commission for the Reinsertion of Mozambican Mineworkers in South Africa (CRTIMAS) and the Mozambican Miners' Association (AMIMO), made up of former workers, in the affairs of active miners, among others. The seminar that has been cited in this document is a clear example of this statement, in the sense that different partners of civil society and trade union bodies were involved in its implementation.

24. In relation to private employment agencies that recruit migrant workers to work abroad and on the laws, rules and regulations relating to private recruitment, in particular, it is established in article 2 of Decree 36/2016 of August 31, which approves the Regulation on the Licensing and Operation of Private Employment Agencies, which was punctually revised through Decree 16/2018 of April 23, these being the regulations in force in the State added to the Labor Law, specifically Article 30, paragraph 4, concerning the emigrant worker.

25. The private employment agencies in Mozambique are subdivided into two groups: those recruiting abroad in number of 7 and those recruiting internally in the number of 58 totalling 65.

26. It should be pointed out that, in view of the nature of the activities carried out by private employment agencies, the nature of which is the placement of labor to other employers, the non-compensation between the value charged by the private employment agency and the value paid to the service provider, has generated complaints, to which MITESS is called to resolve. In order to alleviate these situations and correct others, the General Inspectorate of Labor, in its ordinary or extraordinary Inspection plan, organizes specific campaigns for private employment agencies.

27. Provisions on measures taken to provide information and training to migrant workers on their rights and obligations and to protect them against abusive employment are set out in Article 22 (1) (a) (b) (c) and (d) of Decree 36/2016 of 31 August.

28. The role and responsibilities of recruitment agencies and their joint liability to the employer abroad for claims and liabilities arising in connection with the implementation of the employment contract, including wages, compensation for incapacity, repatriation and death, including repatriation of the deceased migrant workers are set forth in article 22, no. 1, lines e) f) g) h) i) and ej) of decree 36 / 2016, of August 31.

29. Decree 36/2016, of August 31, paragraphs 1 (b) and 2 of article 22, also regulates the provision of life insurance and / or compensation to migrant workers for accidents at work and death by the agencies of recruitment. Paragraph 1 (j) of the same article makes private employment agencies responsible for the translation of the remains and the funeral in case of death of the worker abroad, irrespective of the causes of death. In this respect, Article 12 (1) and (2) and Article 14 (1) and (3) of that law provide information on the issue and renewal of employment agency licenses.

30. Information on complaints against recruitment agencies, as well as information on work inspections carried out, penalties and sanctions imposed in cases of non-compliance with the law, are set out in Decree n°16 / 2018, of April 23rd, which reviews the Decree 36/2016, of August 31, and provides for a sanctioning regime established in article 27.

31. In order to strengthen the regulatory and control mechanisms of private employment agencies and to avoid situations in which such agencies act as intermediaries for abusive foreign recruiters, measures are taken pursuant to Article 22 (3) (a) (b) (c) and (d) of Decree 36/2016 of 31 of August.

32. The Mozambican State through its diplomatic or consular representations, promotes visits to the Mozambican communities in the diaspora, sharing with them questions related to their rights and duties with the State in which they are located; contacts other local authorities (Ministry of Foreign Affairs) in case of discrimination, abuse and exploitation in their jobs; monitors and provides consular assistance and protection to Mozambican citizens detained/jailed after being tried and judged, including their deportation. On the other hand it provides Mozambican citizens with travel documents; guarantees the birth registration of their children and other registration documentation.

### **III. Convention and migration process**

#### **A. Information concerning the articles of the Convention**

##### **Part II of the Convention**

##### **Article 7**

33. In the Republic of Mozambique, national legislation, in particular the Constitution of the Republic and the Labor Law, ensure that all migrant workers and their family members have the rights provided for in the Convention, without distinction and any kind of discrimination. All discriminatory provisions prohibited are enumerated in the Convention (arts. 1 (1) and 7), including sex, language, ethnic or social origin, nationality, age, economic position, property, marital status and birth. Indeed:

(a) The CRM, in article 17 (1), establishes mutual respect for the principle of equality. Also, in relation to the principle of equality and universality, Article 35 recommends equality of all citizens before the law and who enjoy the same rights and duties regardless of color, race, sex, ethnic origin, place of birth, religion, degree of education, social status, marital status of the parents, profession or political choice;

(b) The Labor Law (LT) provides in article 30 that, in the context of the right to free movement of persons and their establishment abroad, the migrant worker has the right to the protection of the competent national authorities;

(c) Article 31 (2) of the LT also establishes that a foreign worker who is engaged in a professional activity in Mozambican territory has the right to equal treatment and opportunities in relation to national workers within the framework of the rules and principles of international law and in compliance with the reciprocity clauses agreed between the Republic of Mozambique and any other Country;

(d) The State and public or private institutions are responsible for creating and maintaining the appropriate services responsible for providing the migrant worker with information about his or her rights and obligations abroad, the facilities for travel, and the rights and guarantees upon return to his or her parents;

(e) Article 4 (1) of the Migration Law recognizes migrant workers the same rights and guarantees as nationals. The materialization of this principle is made on the basis of the articulation between MITESS and the Ministry of the Interior (MINT), through the area of migration control, in issuing permission documents for permanence and control of foreign workers in Mozambique.

### **Part III of the Convention**

#### **Articles 8–15**

34. In the Republic of Mozambique, national legislation, in particular the Constitution of the Republic and the Labor Law, ensure that all migrant workers and members of their families enjoy the rights provided for in the Convention without any kind of discrimination.

35. CRM establishes in article 17, paragraph 1, the mutual respect for the principle of equality. Still in relation to the principle of equality and universality (art. 35), it advocates the equality of all citizens before the law and that enjoy the same rights and duties regardless of color, race, sex, ethnic origin, place of birth, degree of education, social status, marital status of the parents, profession or political choice.

(a) LT, in article 30, recommends that, in the context of the right to free movement of persons and their establishment in foreign territory, the migrant worker has the right to protection by the competent national authorities.

(b) Paragraph 2 of article 31 of the Law establishes that foreign workers who work in Mozambican territory have the right to equal treatment and opportunities with regard to national workers, within the framework of the norms and principles of international law and in obedience reciprocity clauses agreed between the Republic of Mozambique and any other Country.

(c) Article 30 (4) of the aforementioned law establishes that the State and public or private institutions should be in charge of creating and maintaining in operation the appropriate services responsible for providing migrant workers with information about their rights and obligations abroad; as well as the rights and guarantees upon return to their country.

(d) The Migration Law, Article 4 (1), recognizes migrant workers the same rights and guarantees as nationals. The materialization of this principle is made on the basis of the articulation between MITESS and MINT, through the area of migration control, in the issuance of permission documents for permanence and control of the foreign worker in Mozambique.

36. In the Republic of Mozambique there have been no cases of exploitation of migrant workers and members of their families either in the regular or irregular situation, either in the mining and commercial sector or in sexual exploitation involving migrant workers or women, girls and boys in the context of sex tourism;

37. Still in this respect, with a view to ensuring the breeding and to prevent and combat the phenomenon of exploitation, child labor, trafficking in human beings, various legislative, and administrative measures have been developed, with particular emphasis on:

(a) Adoption of the National Plan to Combat Worst Forms of Child Labor, an instrument that integrates activities developed by the various sectors that work to promote children's rights. This instrument also provides for the preparation of a List of Works

Considered to be Dangerous for Children, a document approved by Decree 68/2017, of December;

(b) Establishment of the Labor Law, of the minimum age for the provision of work, and only admitting the provision of work for children aged 15 years through a declaration by parents;

(c) Conducting lectures and seminars for information and awareness raising and through other means of social communication on the worst forms of child labor, domestic and sexual violence, dangers of trafficking and exploitation. These actions have been carried out by different public institutions, namely MITESS, MJCR, Ministry of Gender, Children and Social Action (MGCAS), MINT and the CGPRM (Central Police Command of the Republic of Mozambique) at central and local level in articulation with civil society organizations; and

(d) In the inspections carried out by the Labor Inspection authorities, when the employment of minors is detected, whether national or foreign, the responsible employer is sanctioned and recommended to regularize the situation immediately, taking into account the provisions of article 23 of the Labor Law, the Worst Forms of Child Labor List and other applicable legislation.

38. Concerning alleged cases of ill-treatment of migrant workers by police forces, in particular Chinese, Somalis and Zimbabweans, there is no record of related cases reported in the country.

39. Concerning the investigation of complaints of acts of harassment, corruption and abuse of power by agents of the authority, including allegations of extortion and arbitrary detention of migrant workers and members of their families, there is an institutional framework with competence to recognize and to conduct a proper investigation of criminal acts, namely:

- SERNIC, recently created, replacing the previous ICP, in order to provide this research institution with greater power and robustness needed to face the challenges posed by economic development and globalization, which are generally accompanied by new criminal forms;
- Central Office for Combating Corruption, created by Law 6/2004, of June 17, whose competence is to investigate crimes of corruption;
- Judicial Courts, responsible for the prosecution of criminal actions; and
- Establishment of the legal regime of discipline of agents of the Law that provides for duties and sanctions.

40. Training activities have been carried out for the different actors in the field, namely training through seminars and short courses, law and order officers, Judicial Magistrates and the Public Prosecutor's Office, and police officers, enabling them with tools that allow its reinforcement in matters of prevention and combat of these phenomena. For example, joint border actions have been carried out by SADC police officers.

#### **Article 16–22**

41. Mozambique, as a State Party, does not criminalize offenses related to immigration, but only considers them to be administrative offenses. In view of the fact that the Mozambican State recognizes that foreign citizens have the same rights as national citizens, and that it is necessary to take administrative measures in this case, foreign citizens in the situation of immigrants are guaranteed access to legal assistance and the right to interpretation of language, in accordance with the law.

42. With regard to the measures taken to ensure that the obligation contained in Article 16 of the Convention, taking into account that Mozambique does not criminalize the violation of migratory laws, migrant workers and members of their families in this situation enjoy the same rights as the national citizens.

43. Taking into account that the migrant worker most of the time already have children who hold national citizenship, there is no way for the State to separate them.

44. In response to the list of issues raised by the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, specifically in paragraphs 17 and 38, which deal with measures taken by the State party to guarantee the right family life, in particular the right of children in situations of migration, we have to inform the following:

(a) In order to minimize the negative effects of the above, in 2012 the Mozambique-South Africa Cross-Border Coordination Group was created to control the migration of unaccompanied children and to combat trafficking in human beings at the borders between the two countries;

(b) The above mentioned group, is composed by the following State following Bodies (PGR, MINT, MJCR, MINEDH and MISAU) as well as other organizations such as Save the Children, which guarantees financial support in the communication process between the two countries, as well as assistance to victims;

(c) There is also support from the International Organization for Migration which has ensured transportation for cases of gathering together the once separated family and transport of victims (unaccompanied children and cases of trafficking);

(d) Similar to the Coordination Groups set up with South Africa, other groups have been set up with Zimbabwe, Swaziland and Zambia;

(e) Due to the nature and complexity of the subject, there was a need to strengthen the mechanism within the country; As a result, the National Reference Group on Child Protection and Combating Trafficking in Persons was created in 2015. It is a body composed of representatives of State institutions and civil society, responsible for coordinating and implementing actions against all forms of violence against children, which prioritize actions to prevent and eliminate trafficking of people and assistance and reintegration of victims. This group is led by the PGR and has followed by the MGCAS;

(f) The Mozambique-South Africa Cross-Border Coordination Group meets twice a year where the first meeting in the first half is held in the national territory and the second in the second half is held in the South African territory. The meetings aim to develop actions to facilitate the management of child protection cases between the two countries;

(g) As a result of this partnership, many Mozambican children have been repatriated to Mozambican territory due to management facilities in place to deal with the case.

45. Regarding the right to family life of Mozambicans residing abroad, we may mention the following:

(a) There are campaigns to raise awareness of emigrants about the need to seek regularization of their status as emigrants, and these process may held in the Associations in the host countries as well as in Mozambican consulates for registration with a view to recognize as existing in their countries;

(b) On the other hand, in case of repatriation, communication with the country of origin, as well as the reception of compatriots in these situations and subsequent internal processing of the integration process in the area of origin, will be ensured through the representatives of the consulates.

46. Article 23, question 19, it is reiterated that through the diplomatic or consular representations of the country it is planed visits to the communities with a view to raise awareness regarding relevant information on their rights, this activities are carried out along with other local authorities (Ministry of Foreign Affairs). In case of a complaint for discrimination, abuse and exploitation in their jobs, in these terms, it is it is given all necessary support to the migrant worker alongside with their family in order to provide them with assistant of other authorities that the necessary condition for them to remain in that county.

47. Mozambique instituted a labor administration service in the RSA whose main role is to carry out monitoring work on mining companies and farms employing Mozambican

citizens, with a view to assessing the conditions of work submitted to them, and to provide due assistance in matters labor markets.

### **Article 23**

48. The establishment of diplomatic relations has among other objectives the protection of the interests of the country and its citizens in the receiving country. In this sense, the Mozambican diplomatic and consular representations abroad have been carrying out various actions to facilitate the establishment of national citizens, including in circumstances where they are in an irregular situation. In this regard, all assistance is provided from the production of diverse documentation, namely, birth registration, production of identity cards and passport, marriages to legal assistance when it proves necessary.

49. Assistance has also been promptly provided when situations of xenophobic violence occur, as in some cases with Mozambicans in the Republic of South Africa and Germany.

50. Specifically, in South Africa, where Mozambique has the largest community of migrant workers, with particular emphasis on the gold mines, the Labor Administration Services installed in that country carry out regular monitoring activities for mining companies and farms employing Mozambicans to assess the working conditions in which they are submitted, providing assistance, where necessary, in labor matters.

### **Articles 25 to 30**

51. The Constitution of the Republic of Mozambique (CRM), approved in 2014, establishes among others the following:

(a) Principle of Universality and Equality (article 35), which states that “all citizens are equal before the law, enjoy the same rights and are subject to the same duties regardless of their race, sex, ethnic origin, nationality, religion, level of education, social position, marital status, profession or religion”;

(b) Right to Health (article 89), which states that “all citizens have the right to receive medical health care. But also the duty to promote and defend the health of the community”;

(c) Health (Article 116) states the responsibility of providing quality health services to all citizens belonging to the State, according to available resources and conditions.

52. The Law 19/2004 of 27 August (Law on the Protection of the Person, Workers and Applicant for Employment Living with HIV/AIDS) was adopted, which in its Chapter 2 (Special Rights of Persons Living with HIV/AIDS in the State of Vulnerability) argues:

#### **Article 7 (Child or adolescent living with HIV and AIDS)**

(a) The child or adolescent living with HIV and AIDS has the rights and guarantees enshrined in the Constitution of the Republic and in international conventions, such as the Declaration of the Rights of the Child, the African Charter on the Rights and Welfare of the Child and other national legislation;

(b) The family and the community ensure that every child or adolescent living with HIV and AIDS has the right to be assisted in the fields that includes education, health, food, psycho-social support and housing within their families and, in exceptional cases, substitute in families.

#### **Article 8 (Women living with HIV and AIDS in a state of vulnerability)**

Women living with HIV and AIDS, in addition to the general rights enshrined in this Law, also has the following rights:

(a) Assistance in case of being a victim of sexual abuse;

(b) Priority in access to counseling and testing;

(c) Priority in access to treatment, in social protection programs and in programs of food supply or productive social action;

(d) Maintenance in the couple's house, unless by judicial decision is attributed to the spouse.

Article 9 (Child living with HIV and AIDS in a state of vulnerability)

The child living with HIV and AIDS in a state of vulnerability has the right to:

(a) Access to education, food, housing, medical care, psycho-social assistance within their family and, exceptionally, in substitute families or social caring institution;

(b) Respect for their serological status;

(c) Assistance by a custodian of minors, of the court of the jurisdictional area of their residence;

(d) Follow-up by the State guaranteeing his/her social integration until becoming an adult.

Article 10 (Adult people living with HIV and AIDS in a state of vulnerability)

The adult person living with HIV and AIDS in a state of vulnerability, in addition to the rights enshrined in the Constitution, international conventions and other laws, has the right to be welcomed in the family and, exceptionally, in substitute families or social caring institution.

Article 11 (Persons with disabilities living with HIV and AIDS in a state of vulnerability)

(a) Person with disabilities living with HIV and AIDS, in addition to the rights enshrined in the Constitution, international conventions and other laws, have the right to be cared for in the family and, exceptionally, in substitute families or social caring institutions;

(b) The disabled person living with HIV and AIDS in a state of vulnerability is entitled to social assistance, medical care, access to information, communication and civic education on HIV / AIDS prevention, mitigation and control, family care, exceptionally, in substitute families or social caring institutions;

(c) Depending on the type of disability, she or he also has the right to information, communication and civic education, in an appropriate language.

Article 12 (drag addicted person living with HIV and AIDS in a state of vulnerability)

(a) In addition to the rights enshrined in the Constitution of the Republic, in international conventions and in other laws, a drag addicted person living with HIV and AIDS in a state of vulnerability has the right to be cared for in the family and, exceptionally, in substituted communities or appropriate institutions;

(b) A drag addicted person living with HIV and AIDS in a state of vulnerability is entitled to psycho-social support, rehabilitation programs and HIV and AIDS prevention and treatment.

53. Along with the aforementioned Law, MISAU drafted the Charter of Duties and Rights of the Health User that states "the right to be treatment with courtesy and in the spirit for human dignity".

54. Law No. 23/2007, of 1 August, Labour Law, in its article 216, obliges the company to establish policies to prevent and combat HIV / AIDS and other endemic diseases.

55. Concerning question 25, Mozambique, through diplomatic and consular missions, after the birth of migrant worker's children, they are registered by the authorities of the State Party and subject to transcription to ensure that she or he is registered as a national citizen to guarantee that the child belongs to the country of their parents' origin.

56. Mozambique has legislation on remuneration and working conditions (e.g. overtime, hours of work; minimum wage), all these situations are in full compliance with the ILO Convention on Equal Remuneration of 1951 (No. 100), and the Convention on Discrimination (Employment and ILO Convention, 1958 (No. 111), and apply on a both in regular and irregular situations.

57. Under Article 85 (1) and (2) of the Constitution of the Republic of Mozambique, “Every worker has the right to just remuneration, rest, vacation”. “Every worker has the right to protection and safety and hygiene at work”. Therefore, it follows that in Mozambique, any worker, regardless of sex and nationality, is entitled to a fair remuneration, according to the activity that he / she carries out.

58. Regarding equality of remuneration, Article 108 (3) of the Labor Law provides that: “Every worker, national or foreign, without distinction as to sex, (...), has the right to receive wages and to enjoy equal benefits for equal work”. It follows that in the Republic of Mozambique there is equal pay for equal work regardless of nationality and sex. However, there is a tendency for foreign workers to get better wages compared to nationals, a fact that is neglected when large companies, particularly multinationals, refer payrolls to public departments.

59. As regards the duration of the work, Article 85 (1) of the abovementioned Law provides that: “The normal working period shall not exceed forty-eight hours per week and eight hours per day.” it is concluded that in Mozambique, the normal duration of work per week is 48 hours and 8 hours per day.

60. With respect to the extraordinary work, Article 90 (1) of the aforementioned Law provides that: “The work performed beyond the normal daily working hours is considered extraordinary.” Thus, as the normal daily work-hours is 8 hours, from the time the worker works more than the above hours is doing overtime.

61. With regard to the worker’s weekly rest, Article 95 (1) of the aforementioned Law provides that: “Every worker shall be entitled to weekly rest of at least twenty consecutive hours on a day which is normally Sunday “. Therefore, the Labor Law establishes that the worker has the right to weekly rest and that normally this should coincide with Sunday.

62. With regard to the right to paid leave, Article 98 (1) of the Law provides as follows: “The right of a worker to paid leave is inalienable and in no case may be denied him.” Thus, every worker has the right to and that no worker shall waive the right to paid leave.

63. Regarding the assignment of the labor relationship, article 124 (1) of the Labor Law establishes that “The employment contract may terminate by expiration; revocatory agreement; complaint by either party; termination by any of the contracting parties with just cause.” Therefore, all forms of termination of employment are provided for in the above-mentioned article.

64. Regarding hygiene and safety at work, Article 216 (1) of the Labor Law provides that “All workers have the right to work under conditions of hygiene and safety, and the employer is responsible for the creation and development of means appropriate to the protection of their physical and mental integrity and to the constant improvement of working conditions.” Under the norm established above, every worker has the right to health and safety at work.

65. It should be noted that in Mozambique there are a large number of illegal immigrant workers in various sectors of informal activity, including refugees.

66. This provision constitutes a fundamental right to work, provided for in Article 85 (2) of the CRM, and in pillar 6 of the Government’s Approved Employment Policy, which demonstrates the State’s concurrence with this cause.

67. With regard to the health of workers, paragraphs 1 and 2, all of Article 219 of the Labor Law, state that:

(a) “Large undertakings are obliged to provide, either directly or by a third party engaged for this purpose, a service to provide first aid in the event of an accident, sudden illness, intoxication or illness.”;

(b) “The provisions of the preceding paragraph shall also apply to undertakings which have a lower number of employees and whose activities are cumbersome, unhealthy or involve a high degree of danger to which workers are permanently exposed.”.

68. Also, under article 231, the employer must have collective insurance of its workers, to cover their respective accidents at work and occupational diseases.

69. It follows that the Labor Law obliges large undertakings and undertakings which have at their disposal lower numbers of employees whose activities are cumbersome, unhealthy or involve a high degree of danger to workers permanently exposed to have a service to provide first aid in case of accident, sudden illness, intoxication or indisposition.

70. Article 30 (2) of the Labor Law states that “migrant workers have the same rights, opportunities and duties as other workers in the foreign country where they work, within the framework of government agreements concluded on the basis of independence, mutual respect, reciprocity of interests and harmonious relations between the respective peoples. “

71. In the mining sector, these issues are governed by the Technical and Health Safety Regulations in the Geological-Mining Activity, approved by Decree 61/2016 of 26 December.

72. They are also dealt with in Decree 62/2013 of 4 December, which approves the Legal System of Occupational Accidents and Occupational Diseases. In addition, in the process of the reforms of the General Labor Inspection, a specific Department was created dealing with this matter, designated the Department of Health and Safety at Work.

73. Regarding the measures taken by the State party to ensure that the children of migrant workers have access to education, regardless of the migration status of their parents, we must mention that this expressly embodied in the Strategic Education Plan and other Mozambique’s priority is centered on the provision of access to educational services for all regardless of social status, economic status, origin, religion, gender, ethnic group, physical condition or disability, among other particularities.

74. In the Republic of Mozambique, education for all is a fundamental right enshrined in the Constitution of the Republic (art. 88), the Law on the Protection of the Rights of the Child (art. 2, 4 and 5), which also applies to refugee child, as well as in the Labor Law (article 10) and other normative instruments. The Strategic Plan for Education establishes that priority in Mozambique is centered on the provision and access to educational services, regardless of social, economic, origin, religion, gender, ethnic group, physical condition, etc.

75. The Constitution of the Republic of Mozambique in Articles 89 and 116 guarantees the right to health for all citizens. They are also protected by the Labor Law, Maternity Protection and Paternity (art. 10), Special Rights of Women (art. 11), and Maternity and Paternity Leave (art. 12).

76. Mozambique is also linked to international instruments, such as the Universal Declaration of Human Rights, which establishes access and health care for every human being. The 2008 World Health Assembly Resolution that States Parties should work towards reducing health vulnerability among migrants and communities affected by migration, which also includes special care HIV, STIs, Tuberculosis and Malaria. At MITESS, specifically at the Labor Inspectorate, there is a Department, which is responsible for developing awareness-raising lectures in companies on HIV / AIDS and assisting in the creation of HIV / AIDS and Occupational Health and Safety committees in companies.

77. In addition to the normal activities carried out by diplomatic and consular representations, the Mozambican State has carried out registration campaigns for stateless persons as well as Mozambicans in the diaspora to ensure the birth registration of the children of migrant workers abroad. These actions take place in a number of countries, notably Malawi, Tanzania and Zambia, funded by bilateral and multilateral partners, including NGOs. The activity is the responsibility of the RCM, in coordination with the Ministry of Foreign Affairs and Cooperation.

**Articles 31–33**

78. With regard to measures taken to transfer private funds by reducing the cost of transactions, Mozambique signed the double taxation convention with South Africa, Portugal, Mauritius and the United Arab Emirates.

79. Other measures taken to transfer the gains and savings of migrant workers in accordance with legislation are as follows:

- Decree No. 2/2011, of 16 March, on exemption from customs duties for migrant workers from RAS mines;
- Work Agreement of 1964, which in article 18 determines the transfer of remittances, deferred salaries via individual accounts in Randes; and
- Memorandum of understanding for the payment of deferred salaries via bank accounts with the South African Recruitment Agency Teba.

80. For the knowledge and consequent operationalization of all these norms, they have been elaborated and distributed by the different services, including labor inspections, at the borders of the country and in the companies, pamphlets, posters and conducting of lectures.

**Part IV of the Convention****Article 37**

81. In principle, diplomatic and consular representations provide information on the country where the citizen intends to move, but there is also the Government portal, MITESS and other platforms that can be accessed in order to visualize the legislation in force in Mozambique related to the emigrant worker.

**Article 40**

82. Article 86 and 87 of the RCM provides for the right to freedom of professional and trade union membership of all workers on the national territory without distinction as to color, race and provenance. The same right is provided for in articles 137 of the Labor Law.

83. Information on the regulations governing the employment of foreign nationals in Mozambique, including freedom of association, is provided by the diplomatic representations of Mozambique through leaflets and other relevant means of information.

**Article 41**

84. In the Republic of Mozambique, article 30 (1) of the CRM, in conjunction with article 4 of the Immigration Law (Law No. 5/93, of 28 December) establishes the principle of equal rights between foreign citizens and the national.

85. Pursuant to paragraph 3 of article 4 of the Law, this principle does not apply to political rights and other rights reserved by law to the national citizen, namely, to exercise voting rights and to be elected to public office.

86. A Mozambican migrant worker and members of his family may exercise the right to vote in the State Party, provided that he is representative in that State, in terms of the number of voters. Ex.: RAS, Portugal and Germany.

**Part V of the Convention****Articles 58–63**

87. With regard to the improvement of the situation of frontier workers, there is a measure taken by the Mozambican Government, through local governments, in coordination with trade unions, which is the registration of border workers with the aim of transforming informal workers into formal ones; by organizing them into professional associations; and by integrating them into the compulsory social security scheme. In this sense, it is also sought to maintain habitual residence in a neighbouring State.

## **Part VI of the Convention**

### **Article 64**

88. Concerning measures taken to promote sound and equitable conditions in connection with the international migration of migrant workers and members of their families, there are agreements reached between Mozambique and countries with which it borders. Campaigns are also being carried out in the border areas to raise awareness of the registration of migrant citizens and to discourage irregular migration.

89. Examples of this are the Cooperation Agreement between Mozambique and the Republic of South Africa on 17/01/2003 in the areas of migration, job creation, vocational training, studies and research, statistics on employment, social consultation and social security, and the Memorandum of Understanding signed on November 26, 2015 between Mozambique and RAS in the field of work and employment.

### **Article 67**

90. With regard to promoting conditions that facilitate the reception and reintegration of migrant workers and members of their families on their return to the State Party, including the recognition of professional qualifications acquired abroad, the Mozambican State established the National Institute of Exams, Certification and Equivalences. Mozambican citizens working in the SAR mines are entitled to deferred payment of their income in the country of origin. Actions are also under way to ensure the rights of migrant workers in Mozambique.

### **Article 68**

91. The Republic of Mozambique ratified the UN protocol on combating trafficking in persons, particularly women and children.

92. The Republic of Mozambique adopted the Traffic Law, approved by law nr. 6/2008, of 9 July, on combating trafficking in persons, particularly women and children.

### **Article 69**

93. With regard to the regularization of Mozambican workers abroad, campaigns have been carried out for their legalization in the RSA farms.

94. For the protection of migrant workers and members of their families, the Republic of Mozambique has been carrying out a number of actions, including:

- Approval of the Law on Migration (Law No. 5/93 of 28 December) and its regulations (Decree No. 108/2014, of 31 December);
- Approval of Regulation 30/2016, of 27 July, of the Commission for Labor Mediation and Arbitration (COMAL), covering nationals and foreigners. In its activities, COMAL conducts lectures on the management of labor disputes, giving greater attention to companies with foreign workers in order to provide them with knowledge on the laws in force in the country; and
- Reception of refugees and asylum seekers in the national territory. There are currently 23,000 asylum seekers.

## IV. Data, statistics and official estimates

Table 1  
Immigrant flow of legally contracted labor force

<i>Sex</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>Total</i>
Male	17 829	13 095	16 375	<b>47 299</b>
Female	1 614	1 395	1 560	<b>4 569</b>
<b>Total</b>	<b>19 443</b>	<b>14 490</b>	<b>17 935</b>	<b>51 868</b>

Table 2  
Immigrant flow of labor illegally contracted and suspended

<i>Year</i>	<i>Number of suspended workers</i>
2015	1 182
2016	839
2017	858
2018 (1 <sup>o</sup> Semestre)	511

Table 3  
Migration flow of Mozambican labor force recruited to the mining sector in the Republic of South Africa

<i>Period</i>	<i>New tickets</i>	<i>Renewals</i>	<i>Total</i>
2015	53	29 707	<b>29 760</b>
2016	10	23 071	<b>23 081</b>
2017	42	21 693	<b>21 735</b>

Table 4  
Migration flow of Mozambican labor force recruited to the agricultural sector in the Republic of South Africa

<i>Period</i>	<i>Branch THOLA</i>				<i>Branch ALGOS</i>				<i>Total</i>			
	<i>Renewals</i>		<i>Legalizations</i>		<i>Renewals</i>		<i>Legalizations</i>		<i>Renewals</i>		<i>Legalizations</i>	
	<i>H</i>	<i>M</i>	<i>H</i>	<i>M</i>	<i>H</i>	<i>M</i>	<i>H</i>	<i>M</i>	<i>H</i>	<i>M</i>	<i>H</i>	<i>M</i>
Year 2015	736	107	7	11	1 568	430	1 540	522	<b>2 304</b>	<b>537</b>	<b>1 547</b>	<b>533</b>
<b>Total:</b>	<b>4 921</b>	<b>843</b>	<b>18</b>		<b>1 998</b>	<b>2 062</b>			<b>2 841</b>		<b>2 080</b>	
Year 2016	3 095	481	17	0	2 194	497	0	0	<b>5 289</b>	<b>978</b>	<b>17</b>	<b>0</b>
<b>Total:</b>	<b>6 284</b>	<b>3 576</b>	<b>17</b>		<b>2 691</b>	<b>0</b>			<b>6 267</b>		<b>17</b>	
Year 2017	2 144	255	17	0	2 114	545	767	142	<b>4 258</b>	<b>800</b>	<b>908</b>	<b>165</b>
<b>Total:</b>	<b>6 131</b>	<b>2 399</b>	<b>164</b>		<b>2 659</b>	<b>909</b>			<b>5058</b>		<b>1 073</b>	