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ENVIRONMENT | Mozambique: Crimes against the environment in the new Criminal Code

The new Criminal Code of Mozambique was recently approved, revoking the former Criminal Code of 1886.

Law no. 35/2014, of December 31st, which approves the new Code, states that, for the prevention and repression of crimes, there shall be sanctions and criminal measures. Sanctions may be (i) major sanctions (prison penalties between 2 to 24 years); or (ii) correctional sanctions (prison penalties between 3 days to 2 years and fines).

Environmental crimes are foreseen in articles 349 to 357 of Chapter II of Title IV, as shown in the table below:

Crime	Sanction
Research and illegal exploitation of mineral resources (art. 349)	Major sanction of prison penalty of two to eight years and correspondent fine
Dissemination of diseases (art. 350)	Prison penalty not inferior to one year and correspondent fine
Toxic and harmful substances to health (art. 351)	Prison penalty and correspondent fine
Illegal exploitation of forest resources (art. 352)	Prison penalty and correspondent fine (not applicable to the exploitation of forest resources destined to the domestic or familiar economy)
Destruction of protected or forbidden species (art. 353)	Prison penalty of eight to twelve years and correspondent fine
Pollution (art. 354)	Prison penalty and correspondent fine
Pollution with danger to the community (art. 355)	If the conduct is intentional, major sanction of prison penalty of eight to twelve years If the conduct is negligent, prison penalty never inferior to four years

In respect to the **crime of pollution**, pollution is considered *inadmissible* whenever the nature or the values of the pollutant emissions breach the prescriptions or limitations imposed by the competent authority according to legal and regulatory rules, **companies or other similar entities being jointly liable** for the payment of the fine and for the remediation of the damages caused.

The environmental crimes mentioned in the table above, punished with a prison penalty of up to one year, are subject to **educational and socially useful measures** foreseen in no. 2 of article 85 of the Criminal Code.

Companies and other similar entities are punished with **penalties of fine and temporary exclusion from Government subsidies**, if more severe penalties do not apply, whenever environmental crimes are **perpetrated in their name and in their interest**.

It should also be noted that article 30 of the Criminal Code, regarding **criminal liability of companies**, establishes that companies and mere associations *de facto* are responsible for the **offences** foreseen in the Code, whenever **carried out by the members of their corporate bodies or representatives of the companies in their name and interest**, excluding the circumstances in which the agent acted against orders or clear instructions of the responsible person.

The new Criminal Code of Mozambique **shall enter into force on June 29, 2015**.

Mozambique:

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