

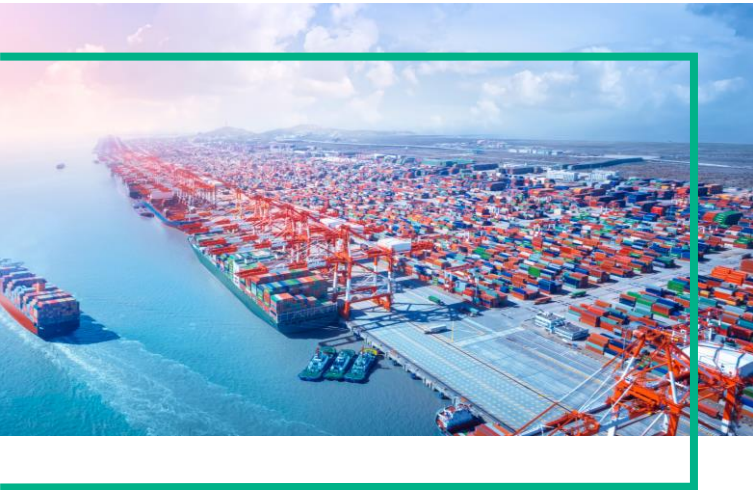
SHIPPING

Mozambique: New Law on the Organization, Composition, Functioning and Competence of Maritime Courts enacted

VdA EXPERTISE



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By means of Law no. 10/2022, of 7 July, effective as of 7 October 2022, the Mozambican Parliament has approved the new regime on the Organization, Composition, Functioning and Competence of Maritime Courts of Mozambique ("Law 10/2022").

Following several legislative reforms that have recently been enacted in various subject matters related to shipping and maritime, this piece of legislation has the potential to be an important step in the specialization of Mozambican Courts in maritime disputes.

Although maritime jurisdiction has been established in Mozambique since 1996, by way of Law no. 5/96 of 4 January, foreseeing Courts in Maputo, Inhambane, Beira, Quelimane, Nacala and Pemba, the fact is that these Courts were never actually set up, with all it implies, i.e., jurisdiction over maritime conflicts being exercised by the provincial judicial Courts.

Through this law, the Mozambican legislature intends, on the one hand, to *de facto* create and implement the maritime jurisdiction – with the possibility of maritime Courts being set-up in each of the eleven Mozambican provinces – and, on the other hand, to ensure compatibility with the provisions of the 2004 Constitution of Mozambique.

Moreover, Law no. 10/2022 also responds to a set of challenges brought by Law 20/2019, of 8 November, the Law of the Sea, mainly related to the qualification of some practices in the maritime space as maritime crimes.

With regards to jurisdiction, maritime Courts remain competent for settling disputes relating to maritime, river and lake jurisdiction in civil, criminal and commercial matters (e.g., ship arrests, collision, salvage, charterparty disputes, general average, bottomry, towage, pilotage, shipbuilding contracts, to name a few), as well as maritime, river and lake contraventions and other matters of a shipping and maritime nature that are not assigned by law to another jurisdiction.

This includes the jurisdiction to enforce their own decisions and to order preliminary injunctions, with Courts operating on weekends and public holidays on all urgent matters.

It is worth mentioning that Law 10/2022 has made the proceedings much straightforward (e.g., reducing summoning and notifications deadlines, deadlines for challenging or opposing to claims, vessel interests' representation, to name a few). In this regard, it is important to emphasize that in the event of attachments and injunctions, and whenever it does not have grounds to preliminarily reject the claim, Courts are now required to order the arrest or detention of vessels within 24 hours as of submission of the relevant application, which, at least in theory, makes Mozambique a friendly jurisdiction for ship arrests.

A final word to add that Law no. 10/2022 does not prevent the possibility of maritime disputes of a commercial nature being subject to arbitration, mediation or conciliation.

The merits of this new statute are still dependent on its effective implementation, but this is a clear sign of the commitment of Mozambique to adapt, modernize and stand by the shipping and maritime industries best international practices.

Contacts



MOZAMBIQUE@VDALEGALPARTNERS.COM