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## New developments in Mozambican Competition Law

This week the long-awaited Regulation meant to complete the Mozambican Competition Act saw the light of the day. [Decree 97/2014](#), of 31 December, was rendered public and puts in place the last piece of legislation required for the enforcement of competition rules in Mozambique.

The Mozambican Competition Act (Law 10/2013 of 11 April) was followed first by the adoption of the organic statute of the Competition Authority (Decree 37/2014 of 1 August) and now by the Regulation laying down detailed rules as regards the application of the main provisions of the Competition Act. A decree introducing changes to the financing of the Competition Authority was also adopted ([96/2014, of 31 December](#)).

The new Regulation brings about novelties in three areas: clarification of antitrust concepts and proceedings, merger control proceedings and the leniency program.

As regards antitrust, the concepts of “dominant position” and “abuse” were fine-tuned and the concept of “economic dependence” was introduced, mirroring the Portuguese Competition Act.

The Regulation outlines the procedure regarding individual exemptions granted to agreements that allow for efficiency gains. For example, restrictive practices which fall within the scope of Article 21 of the Competition Act, and are hence justifiable, shall benefit from the exemption through a simplified procedure. The regulation also empowers the Competition Authority to adopt block-exemption regulations as the European Commission does.

A major novelty is the leniency program launched by the Regulation. The Competition Authority is instructed to adopt a leniency regime but the Regulation already provides for a set of rules as from now. Whistle-blowers who cooperate with the Competition Authority will have a fine reduction from 70% to 10% (depending on whether the whistle-blower is the first, second or third undertaking to apply for leniency) if their participation in the infringement ceased and the Authority did not gather on its own enough evidence to secure the imposition of a fine.

Merger control is not forgotten. The new Regulation establishes the jurisdiction of the Competition Authority to rule on mergers. Very much in line with the equivalent provisions of the Portuguese Competition Act, the Regulation establishes notification thresholds based on three different criteria: market share, turnover and a combination of both. If the thresholds are met, the merger is subject to mandatory filing with the Authority prior to its implementation. The parties are subject to a stand-still obligation until a final decision is adopted and may be subject to fines in case the obligation is infringed.

The Regulation has formally entered in force on the date of its publication in the Official Gazette – 31 December 2014 – despite the time gap between this date and the moment as of the Competition Regulation was effectively disclosed.

It seems that the Competition Authority finally received some teeth and that competition rules may now be effectively applied. The appointment of the Board of the Authority is now awaited but until such appointment takes place, companies which are active in Mozambique might wish to reconsider some of their practices.

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