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the Elimination
of all Forms of
Racial Discrimination**

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OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION**

Twelfth periodic reports of States parties due in 2006

Addendum

MOZAMBIQUE * **

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** In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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Introduction

1. The present report of the Government of Mozambique covers the period from 1986 to 2004. It has been prepared in accordance with the obligation of States parties to the International Convention on the Elimination of All Forms of Racial Discrimination to submit periodic reports under article 9.
2. Part I of the report gives a summary of the country's historical and political background and provides demographic information concerning the Mozambican population and its culture. It also provides information on national legislative measures to combat racism and xenophobia, on the legal status of foreign citizens in Mozambique, on the constitutional provisions guaranteeing equality, and on the overall situation with regard to racial discrimination.
3. Part II deals with articles 2 to 7 of the Convention and provides information on measures taken by the Government to implement its policy to combat racism, racial segregation and racist organizations and to ensure respect for the principle of equality before the courts, effective compensation for damages, and education and information.
4. Part III contains the conclusion and recommendations, including a brief assessment of Mozambique's compliance with the Convention.

PART I

I. GENERAL INFORMATION

A. Geographical situation

5. Mozambique is situated on the South-East coast of Africa and has a total area of 799,380 square km. It is divided into 11 provinces, namely: Niassa, Cabo Delgado, Nampula, Zambézia, Tete, Manica, Sofala, Inhambane, Gaza, Maputo province and Maputo city. Maputo is the capital of Mozambique.
6. To the north, Mozambique borders on the United Republic of Tanzania; to the south it borders on South Africa (Natal province) and Swaziland, and to the west it borders on Malawi, Zambia, Zimbabwe and South Africa (Mpumalanga province). To the east, it borders the Indian Ocean. At the regional level, it is a member of the Southern African Development Community (SADC).

B. Historical background and main political developments

7. Mozambique was a Portuguese colony from 1498 to 1975. When the Portuguese arrived in 1498, there was a strong Arab influence along the coast and, in general, there was interaction with Asia.

8. At the Berlin Conference of 1884-1885, in which the main colonial Powers participated, Mozambique formally became a Portuguese colony.
9. During the period of colonial occupation, a system of racial exploitation and discrimination was institutionalized as part of the colonial Government's policy. This situation led to discontent among Mozambicans. This, together with the need to achieve the country's independence, gave rise to movements of resistance to foreign domination.
10. In 1962, the Mozambican Liberation Front (FRELIMO) was founded from the merger of three resistance movements to colonial occupation: the National African Union of Independent Mozambique (UNAMO), the National Democratic Union of Mozambique (UDENAMO) and the Mozambican African National Union (MANU); the first president of FRELIMO was Dr. Eduardo Mondlane. In 1964, FRELIMO began its armed struggle to free the country from the colonial yoke and eliminate all forms of racial and tribal discrimination.
11. FRELIMO took up the armed struggle after the attempts at dialogue with the colonial Power failed. The war of liberation lasted 10 years, culminating in the country's independence on 25 June 1975 and the adoption of the Constitution of the People's Republic of Mozambique, which entered into force on the same day.
12. Since the proclamation of national independence, the country has been led by Governments of the FRELIMO Party. Since it assumed leadership of the country, the party in power has tried to build a just society based on the democratic principles of the fundamental rights and duties of all citizens, irrespective of race, sex, ethnic origin, place of birth, religion, level of education, social position, profession or political preference.
13. As a result of the policy of inclusion and national unity and non-discrimination on ethnic, racial or tribal grounds, which was espoused by FRELIMO soon after it came to power, in spite of the population's ethnic and cultural diversity there has always been a healthy and harmonious coexistence among the various ethnic groups.
14. The first President of independent Mozambique was Marshal Samora Machel, who died in a plane crash in Mbuzini, South Africa, on 19 October 1986.
15. On 30 November 1990, the Constitution of the Republic of Mozambique entered into force. The new Constitution was based on a revision of the 1975 Constitution. The aim of the revision was to improve the basic regulations on the functioning of a democratic State based on the rule of law in the context of a multi-party democracy.

16. On 4 October 1992, the General Peace Agreement was signed. This initiated a massive return of more than 1.7 million Mozambicans who had sought refuge in neighbouring countries: Malawi, South Africa, Swaziland, the United Republic of Tanzania and Zimbabwe. These, as well as another 3.8 million internally displaced persons, were resettled in their places of origin.

Table 1
Repatriation to Mozambique, 1992-1994

Country	Number of refugees
United Republic of Tanzania	58 000
Malawi	1 285 000
Zambia	22 000
Zimbabwe	247 000
South Africa	71 000
Swaziland	17 000
Total	1 700 000

17. In the same year, the demobilization of the armies began and weapons were collected. Ex-combatants were assigned the task of rebuilding the country, and measures were taken to resettle and reintegrate displaced persons and refugees with a view to creating stable social conditions in rural areas, increasing economic activity and laying the groundwork for a long-term development strategy.

18. In October 1994, the first general and multi-party elections were held; the winner was Mr. Joaquim Chissano and the FRELIMO Party. The same year, the Government submitted its Five-Year Programme to the Assembly of the Republic. Apart from the main objectives of maintaining peace and promoting national reconciliation and reconstruction, a central objective of the Five-Year Programme was to stimulate the country's economic and social development.

19. In December 1999, the second general and multi-party elections were held. President Joaquim Chissano again won the presidential election, and his term of office was renewed for a further five years and the FRELIMO Party was again proclaimed victorious.

20. In December 2004, the third general elections were held in national territory and abroad. An important aspect of these elections was the fact that the legality of the electoral process was monitored by the Constitutional Council, a recently established body with the competence to rule, in last instance, on electoral complaints and validate and announce the results of the elections. In the 1994 and 1999 elections, that responsibility was exercised by the Supreme Court.

Table 2**Ethnic composition of the Assembly of the Republic**

Provinces	1994*	1999*	2004**
Maputo city	18	16	16
Maputo	13	13	13
Gaza	15	16	17
Inhambane	16	17	16
Sofala	21	21	22
Manica	13	15	14
Tete	14	18	18
Zambézia	47	49	48
Nampula	52	50	50
Cabo Delgado	21	22	22
Niassa	11	13	12
Total	241	250	250

* Data from the book *Eleições Gerais - 1999*, published by STAE.

** In *Boletim da República No. 3 Suplemento, I Série Deliberação do Conselho Constitucional No. 5/CC/2005 de 19 de Janeiro*.

21. Thus, in accordance with the provisions of article 2 of the 1990 Constitution, in conjunction with article 6 (c) (2) of Act No. 9/2003 of 22 October 2003, the Constitutional Council approved the records of the national monitoring of the elections, and Mr. Amando Emílio Guebuza and the FRELIMO Party were declared the victors.

22. In 2005, a new Constitution of the Republic of Mozambique entered into force. The Constitution guarantees the continuity and improvement of democracy and the fundamental freedoms of all citizens, irrespective of race, sex, religious belief or ethnic group.¹

23. On 19 January 2005, the Constitutional Council proclaimed the validity of the results of the general, presidential and legislative elections, held on 1 and 2 December 2004, in its Decision No. 5/CC/2005, published in the *Official Gazette*, series I, No. 3. This decision was taken pursuant to article 306, which reads as follows:

¹ On 19 January 2005, the Constitutional Council proclaimed the validity of the results of the general, presidential and legislative elections, held on 1 and 2 December 2004, in its Decision No. 5/CC/2005, published in the *Official Gazette*, series I, No. 3. This decision was taken pursuant to article 306, which reads as follows:

“The Constitution shall enter into force on the day immediately following the day on which the results of the 2004 general election are validated and proclaimed.”

“The Constitution shall enter into force on the day immediately following the day on which the results of the 2004 general election are validated and proclaimed.”

24. The FRELIMO Government has guaranteed the regular holding of both general and regional elections in accordance with the period established by the Constitution, and has consolidated and is strengthening democracy and respect for citizens' right to participate in the election of their representatives through universal, direct, equal, secret and periodic universal suffrage.

C. Demographic composition

25. Demographic data indicate that Mozambique has a population of some 19,888,701 inhabitants.² As mentioned above, Mozambique is divided into 11 provinces, namely: Niassa, Cabo Delgado, Nampula, Zambézia, Tete, Sofala, Manica, Gaza, Maputo province and Maputo city.

Table 3

Estimated population, 2006*

Provinces		
Maputo City	1 244 227	6%
Maputo	1 072 086	5%
Gaza	1 333 106	7%
Inhambane	1 412 349	7%
Sofala	1 676 131	8%
Manica	1 359 923	7%
Tete	1 551 949	8%
Zambézia	3 795 509	20%
Nampula	3 767 114	19%
Cabo Delgado	1 650 270	8%
Niassa	1 027 037	5%
Total	19 888 701	

Women	10 285 670
Men	9 603 031

* Data provided by the National Statistics Institute.

26. The Mozambican population is predominantly rural and population density varies. Population density is greatest in Maputo city, with some 300 inhabitants per km², and lowest in Niassa province, with some 6 inhabitants per km². However, the country's mean population density is 20 inhabitants per square km.

² Information available at the website of the National Statistics Institute: www.ine.mz.

D. Culture and religion

27. In general, Mozambican culture is based on traditions and customs that originate in the traditional beliefs, practices and values of each area of the country and population group. In rural areas, most of the population embraces traditional beliefs, practices and worship.

28. Culture is a means of promoting patriotism and national unity. Songs, dances, poetry, sculpture, painting and other forms of cultural expression have always played a rather significant role in mobilizing Mozambican citizens in the struggle for dignity and the appreciation of Mozambican culture.

29. Culture has always been fully promoted through national, provincial and district festivals and literary competitions with a view to protecting and instilling respect for the vast and rich diversity of the national cultural mosaic. In this regard, Mozambique has approved the national cultural policy and legislation for promoting the material and immaterial values of Mozambican heritage with the standardization of the written form of national languages.

30. Since 2003, a pilot project has been under way to introduce local languages in the curricula of primary schools. In the initial phase, the project is being conducted in 23 schools, with an average of 2 schools in each province.

Table 4

Teaching of local languages in 23 primary schools*

Provinces	Language
Maputo city	Ronga
Maputo	Ronga
Gaza	Xichangana
Inhambane	Cicoti, Bitonga, Xitsua
Sofala	Ndau, Cisena
Manica	Ndau, Tchiute
Tete	Nyanja, Nhungue
Zambézia	Elomwe, Echuwabo
Nampula	Emakhuwa
Cabo Delgado	Emakhuwa, Kimuane, Shimakonde
Niassa	Nyanja, Emakhuwa, Yau

* Data collected by the National Institute for the Development of Education (INDE).

Table 5
Most widely spoken local languages in Mozambique*

	Language	Women	Men	Total
1.	Ronga			
2.	Xichangana	812 171	611 156	1 423 327
3.	Cicoti			
4.	Bitonga			
5.	Xitsua			
6.	Cisena	458 070	417 987	876 057
7.	Ndau			
8.	Tchiute			
9.	Nyanja			
10.	Nhungue			
11.	Elomwe	514 042	471 878	985 920
12.	Echuwabo	404 756	381 959	786 715
13.	Emakhuwa	1 685 928	1 605 988	3 291 916
14.	Kimuane			
15.	Shimakonde			
16.	Yau			
17.	Portuguese			
18.	Other Mozambican languages			
19.	Foreign languages			

* Data collected by the National Statistics Institute.

31. With regard to religion, a considerable part of the population professes the Christian religion and has followed religious practices that result from contact with the outside world. Islam is another major religion, particularly in the north of the country and in the coastal area.

32. It should be pointed out that the Constitution guarantees the principle of a secular State in article 12, which provides for separation between the State and religious denominations. It further provides that religious denominations shall have organizational freedom, freedom to carry out their functions and freedom of worship, and that they shall conform to the laws of the State.

II. CONSTITUTIONAL PROVISIONS AGAINST RACIAL DISCRIMINATION

33. The revision of the Constitution that resulted in the current Constitution was begun in 1999. The new Constitution was adopted at the end of the mandate of the second legislature and entered into force on 15 January 2005, the date on which the results of the elections were validated and proclaimed.

34. The Constitution guarantees the principle of equality in a peremptory manner, in the following terms:

“Article 35.

All citizens are equal before the law, and they shall enjoy the same rights and be subject to the same duties, regardless of colour, race, sex, ethnic origin, place of birth, religion, level of education, social position, ... profession or political preference.”³

35. Acts intended to undermine national unity, disturb social harmony, or create divisions or situations of privilege or discrimination based on colour, race or sex are punishable by law. This principle is contained in article 39 of the Constitution and applies to all citizens in the national territory.

36. The women’s emancipation movement has made steady progress in improving the status of women. Women are becoming increasingly active in political, economic and social life, particularly in executive and legislative bodies and in public administration.

37. For example, of the 250 deputies to the Assembly of the Republic, 78 are women, which corresponds to 31.2 per cent, a point of reference not only for Africa but for the world.

38. The Constitution of Mozambique upholds the principle of the dignity of women and their role in society, and provides as follows:

“Article 36.

Men and women shall be equal before the law in all spheres of political, economic, social and cultural life.”⁴

39. In order to encourage respect for the activities of religious denominations in promoting a climate of understanding, tolerance, peace and strengthening national unity, the spiritual and material well-being of citizens and economic and social development, article 54 of the Constitution contains the following provisions:

“1. All citizens shall have the freedom to practice or not to practice a religion;

“2. No one shall be discriminated against, persecuted, harmed, deprived of his or her rights or benefit from or be exempt from duties on the grounds of his or her faith or religious persuasion or practice;

³ The same principle was contained in the 1975 and 1990 Constitutions, in article 26 and article 66, respectively.

⁴ The principle of gender equality was guaranteed in the 1975 and 1990 Constitutions in article 29 and article 67, respectively.

- “3. Religious denominations shall have the right to pursue their religious aims freely and to own and acquire assets for carrying out their objectives;
 - “4. The protection of places of worship shall be ensured;
 - “5. The right to conscientious objection shall be guaranteed by law.”
40. In the field of freedom of association, article 52 of the Constitution states:
- “1. All citizens shall enjoy freedom of association;
 - “2. Social organizations and associations shall have the right to pursue their aims, to create institutions designed to achieve their specific objectives and to own assets in order to carry out their activities, in accordance with the law;
 - “3. Armed associations of a military or paramilitary nature, as well as associations that promote violence, racism, xenophobia or pursue aims that are contrary to the law, shall be prohibited.”
41. Article 94 of the Constitution, which deals with culture, establishes the following:
- “1. All citizens shall have the right to freedom of scientific, technical, literary and artistic creativity;
 - “2. The State shall protect rights relating to intellectual property, including copyright, and shall promote the practice and dissemination of literature and art.”
42. In accordance with the provisions of article 249, the new Constitution establishes the post of Ombudsman (*Provedor de Justiça*), who in the discharge of his functions serves the public interest in matters relating to citizens’ fundamental rights and freedoms.
43. The objective of establishing the post of Ombudsman was to ensure that offices and agents of the public administration obey the Constitution and the law and act with respect for the principles of equality, impartiality, ethics and justice.
44. In accordance with article 253 of the Constitution, citizens have the right to receive information from the competent services of the public administration, whenever they request it, concerning the progress of processes in which they have a direct interest in terms of the law. Article 253 guarantees interested citizens the right to judicial appeal against the illegality of administrative acts that endanger their rights.
45. Under the Constitution, all citizens have the right to access to the courts, and persons accused of a crime have the right to defence and to legal assistance and aid.
46. Article 70 of the Constitution states that every citizen shall have the right of recourse to the courts against acts that violate their rights and interests established in the Constitution and other legislation, referred to in article 69. Article 40 guarantees the right to life and excludes any application of the death penalty. Article 66 guarantees the right of habeas corpus.

47. The right to asylum is guaranteed in article 20 of the Constitution, which provides that the Republic of Mozambique shall grant asylum to foreigners persecuted on the grounds of their struggle for national liberation, democracy, peace and the protection of human rights. In this respect, article 20, paragraph 3, of the Constitution provides that the law shall define political refugee status.⁵

III. NATIONAL MEASURES TO COMBAT RACIAL DISCRIMINATION

Measures taken by the Government

48. The Government of Mozambique has endeavoured to comply with its international commitments by adopting policies and legislative and administrative measures to ensure the effective enjoyment of fundamental rights and freedoms by citizens.

A. Political measures

49. In its Five-Year Plan for 1995-1999 concerning social justice, the Government programmed the following actions:

- Guarantee the effectiveness and efficiency of the administration of justice;
- Ensure the independence of the courts with respect to the legislature and the executive or any other forms of subordination, guaranteeing that courts are guided exclusively by the Constitution and other legislation;
- Promote the training of magistrates and justice officials in order to meet the needs of the administration of justice;
- Guarantee the functioning of the judicial inspection service;
- Consolidate and expand legal advisory services and assistance and legal aid for citizens of the most disadvantaged classes, giving priority to their defence in criminal proceedings;
- Create conditions that will enable the Order of Lawyers to function in Mozambique;
- Guarantee, in the field of public order, respect for human rights.

50. In its programme, the Government has established the following objectives and priorities:

- Reduction of the levels of absolute poverty, which will be pursued through measures in the field of education, health and rural development;

⁵ In 1991, Act No. 21/91 of 31 December was adopted; it implements the principles and norms contained in international conventions on the rights of refugees.

- Rapid and sustainable economic growth, focusing attention on the creation of an economic environment conducive to private sector activities;
- Economic development of the country, giving priority to rural areas and bearing in mind the need to reduce regional imbalances;
- Consolidation of national peace and unity, justice and democracy and patriotism as indispensable conditions for the country's harmonious development.

51. In this context, the Government has established the following priority areas.

52. Respect for the human rights contained in the Universal Declaration of Human Rights, which has been assumed by the Government as one of the fundamental conditions for the maintenance of a climate of social and political harmony, indispensable conditions for the successful implementation of Mozambique's development goals.

53. In this area, the Government pursued its efforts to consolidate the rule of law, introducing a fair and efficient justice system. Throughout history, young people have played an important role in the political, economic, social and cultural fields through their membership in youth associations, as a privileged form of young people's participation in the search for solutions to problems of concern to society.

54. National unity, in the context of ethnic and cultural diversity, the diversity of traditions, religious denominations, gender and the plurality of ideas, has always been preserved, enabling every citizen to develop his or her talents, creativity and cultural awareness as ways of promoting freedom of expression, of democracy in the country and of our culture, which are crucial to the maintenance of a political and social climate conducive to harmonious social and economic development.

55. In this context, citizens' participation in the socio-economic and political life of the country is considered crucial to the search for better solutions to the country's problems and to the promotion of civil liberties. In this process, the fostering of a dialogue as the Government's basic way of sounding out public opinion and finding the best ways of meeting populations' needs, is of paramount importance.

56. The objective of reducing absolute poverty levels presupposes an emphasis on the provision of basic services to the most disadvantaged population groups. Consequently, the Government's main action is being directed towards improving the living conditions of the majority of the population, which is composed of women. Thus, women are at the centre of attention, and efforts are being made to ensure that they enjoy equal opportunities and rights, to raise their level of education and to strengthen their role as educators of future generations and in shaping the personality of Mozambicans.

57. On the basis of the principle that knowledge is an indispensable means of raising people's living standards, the Government is continuing to expand educational services and to improve their quality. The fostering of patriotism among Mozambicans, particularly young people, is one of the mainstays of government action.

58. The right to education is one of the fundamental rights of Mozambicans, which were won with national independence. It is in this context that Mozambique accepted the challenge of education for all. With the advent of peace in 1992, the achievements of the first years of independence were recovered and surpassed; that is, the school enrolment rate in the first grade of primary school rose to 100 per cent, and the illiteracy rate fell to around 50 per cent.

59. The network of secondary schools was expanded to all districts of the country. In 1975, higher education was available at only one university in the country's capital, and the university had only five Mozambican teachers. Until 2003, there were about 2,000 Mozambican students and teachers in the public and private higher education network in seven of the country's provinces.

60. In this area, the Government is advocating increased investment in education, with priority given to basic education and literacy. Thus, the continuous expansion of primary education will be complemented by literacy programmes, particularly for women and young men and women.

61. The Government still must take measures to train the workforce needed for the development of the national economy, through the reactivation of vocational training based on the country's socio-economic reality and which takes account of the need to establish complementarity between rural and urban development and to integrate the vital sectors of our economy.

62. The life of citizens is one of their fundamental rights. Thus, the Government is committed to promoting health and preventing illness, thereby contributing to strengthening the production and productivity of the family sector, increasing its income, improving citizens' living conditions and reducing levels of absolute poverty.

63. One of the Government's priorities is to improve health care with a view to ensuring that the population receives more assistance. Until 2003, the health-care network was increased by 776 health units; there were nine rural hospitals and 776 primary health care units. As a result of these developments, today some 60 per cent of Mozambicans have access to health care.

64. The expansion of health services, water supply and sanitation will be continued, with priority being given to basic health-care services, intensifying preventive measures and focusing attention on transmittable and endemic diseases, particularly cholera and malaria and HIV/AIDS.

65. With regard to HIV/AIDS, measures have been taken to establish general principles to ensure that all workers and job applicants are not subjected to discrimination in the workplace. In this regard, appropriate measures must be taken to prevent exclusion, stigmatization and discrimination, as well as other measures for the social and emotional protection of persons living with HIV/AIDS, through education, information campaigns, awareness-raising and health care.

66. The objectives of economic development must be the eradication of poverty, reduction of imbalances between the country's regions, and strengthening of the national entrepreneurial sector so that all Mozambicans can benefit from it.

B. Legislative measures

67. Legislation currently in force in Mozambique promotes racial equality. The following pieces of legislation are cited by way of examples.

68. Article 46 of the Labour Act provides as follows:

“All national or foreign workers, irrespective of sex, race, colour, religion, political or ideological conviction, ascendance or origin, have the right to receive a salary and to enjoy equal pay for equal work.”

69. While the Criminal Code of Mozambique does not define or punish the crime of racism, acts of racial discrimination that are subsumable under any crime defined in the law (bodily harm, rape and others) create criminal responsibility for the offender under the following articles of the Criminal Code:

“Article 27.

Criminal responsibility consists in the obligation to compensate for damages caused to the moral order of society, including the penalty established in the law and implemented by the competent court.”

“Article 52.

All persons who commit punishable acts have criminal responsibility, in the absence of any circumstance extenuating such responsibility, in accordance with the provisions of article 41 and subsequent articles, unless otherwise provided by law.”

70. In cases of civil liability for acts of racial discrimination, the Civil Code stipulates as follows:

“Article 483.

“1. Any person who, intentionally or through negligence, violates the right of another person or any legal provision intended to protect other people’s interests shall be obliged to compensate the injured party for the damages resulting from such violation.

“2. The obligation to provide compensation independently of guilt exists only in the cases specified by law.”

“Article 501.

The State and other public collective persons, when damages are caused to third parties by their bodies, agents or representatives in the exercise of private management activities, shall bear civil liability for such damages to the extent that the offending parties are responsible for the damages caused by their agents.”

71. Act No. 8/91 of 18 July 1991, which deals with freedom of assembly and association guaranteed by the Constitution of Mozambique, stipulates that the Government is responsible for recognizing associations and ensuring that their objectives are in conformity with the relevant constitutional principles.

72. In view of the complementary role played by foreign non-governmental organizations (NGOs) in Government initiatives and actions, it was deemed necessary to establish authorization criteria, the objectives to be achieved and the way in which foreign NGOs conduct their activities in Mozambique. Decree No. 55/98 of 13 October 1998 was adopted for this purpose.

73. With a view to prohibiting the promotion of discrimination in the conduct of their activities, associations must, in addition to the provisions of their statutes and other legislation, provide any information that competent official bodies request from them (Act No. 8/91).

74. Act No. 23/91 of 31 December 1991 gives workers the freedom to establish associations without any form of discrimination, with a view to promoting and protecting their social and professional interests. Freedom of professional association and trade unions is also a right contained in the Constitution and the Labour Act. Constituted associations must act in accordance with the constitutional principles relating to the country's moral, public, economic and social order, and must not harm the rights of third parties.

75. With regard to the right of citizens to have recourse to the courts, Act No. 2/96 of 4 January 1996 provides for the right of all citizens to submit petitions, complaints and claims to the competent authority in order to demand the restoration of their violated rights or to protect the general interest.

76. In the area of tourism, Mozambique has many attractions, ranging from the richness of the coast and the beauty of its beaches to its diverse flora and fauna. These provide incentives for promoting and investing in tourism, which will contribute to the creation of new jobs, the construction of new hotels and tourist resorts and the revitalization of conservation areas, parks and reserves.

77. Recognizing the very dynamic nature of tourism and the need to amend current legislation, the Government adopted Act No. 4/2004 of 17 June 2004, article 16 of which provides as follows:

“2. In addition to the duties enumerated in the preceding paragraph, the providers of tourism-related products and services must, in particular:

“(a) Perform services for which they were authorized, without discrimination on the grounds of nationality, social status, race, sex, ethnic origin, religion or political affiliation.”

78. In order to implement the right to asylum contained in the Constitution, Mozambique has ratified the principal international instruments relating to the right of refugees and has taken regulatory measures to ensure the social reintegration of refugees and displaced persons.

Table 6

**Statistical data on asylum-seekers and refugees registered by
the National Refugee Support Institute from 1995 to 2004**

Country of origin	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Total
Afghanistan				1							1
Angola	5	8	2	11	3	19	26	12	7		93
Bangladesh								1			1
Bosnia	1										1
Burundi	30	69	332	246	175	142	322	245	406	161	2 128
Cameroon	3	2		4		2	1				12
Central African Republic		1						1			2
Chad								1			1
Chechnya			4								4
China		1									1
Comoros					1		1				2
Congo (Brazzaville)			2	3	3		2	4	5		19
Cuba						14	2				16
Democratic Republic of the Congo	19	43	252	200	410	710	1 950	1 072	1 825	814	7 295
Eritrea				1	3		6			2	12
Ethiopia	17	7	9	26	3	10	10	12		2	96
Ghana		1					1				2
Guinea Bissau	1										1
Iraq					1						1
Ivory Coast		1						1	1		3
Jamaica							1				1
Kenya				1	1		11	1			14
Liberia	3	14	12	1		7	4	17	23		81
Madagascar									1		1
Malawi								4			4
Mali	1										1
Namibia	1										1
Nigeria		1	2								3
Rwanda	34	60	90	58	94	117	478	201	316	30	1 478
Sierra Leone	1		2	7	2	8	2	10	1		33
Somalia	25	35	49	30	23	41	71	56	11	104	445
South Africa		3									3
Sri Lanka					1	1					2
Sudan	2	2	8	11	11	4	10	18			66
Swaziland	2					2					4
Togo			1								1
Tunisia	1										1
Uganda	2	5	3	2	3	6	6	11	8	5	51
United Republic of Tanzania				1	1		1				3
Zimbabwe					1		3	1	3	6	14
Total	148	253	768	603	736	1 083	2 908	1 668	2 607	1 124	11 898

Table 7

**Number of approvals of refugee status
from 1995 to 2004**

Year	Number of approvals
1995	0
1996	0
1997	0
1998	0
1999	29
2000	97
2001	11
2002	0
2003	63
2004	319
Total	619

C. Measures taken by the local authorities

79. In the context of decentralization, local authorities organize the participation of the population in the solution of the community's problems and promote local development through the deepening and consolidation of democracy, within the framework of national unity.

80. Local authority is vested in local autonomous entities (*autarquias*) made up of the municipalities and settlements. These have patrimonial and financial autonomy as well as the power to take measures to promote the principle of equality.

81. The local authorities are taking various measures, including measures to provide education and to combat absolute poverty, through the implementation of social integration projects in support of disadvantaged families, the construction of schools for children, the promotion of adult education, and vocational training. On this basis, article 118 of the Constitution of Mozambique recognizes the value of the local authority and provides as follows:

“1. The State shall recognize and esteem traditional authority that is legitimized by populations and is in conformity with customary law.

“2. The State shall define the relationship between traditional authority and other institutions and the part that traditional authority should play in the economic, social and cultural life of the country, in accordance with the law.”

82. The aforementioned provisions of the Constitution do not refer to the direct integration of international custom, which is explicitly designated as a source of international law in article 38 of the Statute of the International Court of Justice. The provision refers to the leadership capacity of traditional authorities, in accordance with the traditions and customs of the local population.

D. Legal status of foreign citizens in Mozambique

83. In order to define the legal framework relating to the management and implementation of migration and to reflect in the legal system the advances arising from international conventions, the Government approved Act No. 5/93 of 28 December 1993, which establishes the legal system governing foreign citizens with respect to their entry into, stay in and departure from the country, and to rights, duties and guarantees.

84. Article 4 of Act No. 5/93 stipulates the following general principle: “Foreign citizens who reside or are temporarily in the national territory shall enjoy the same rights and guarantees and be subject to the same duties as Mozambican citizens.” Foreigners do not have political rights or other rights that are expressly reserved by law for Mozambican citizens.

85. On the other hand, article 14 of the Civil Code provides that “foreigners shall have the same rights as [Mozambican] nationals with regard to the enjoyment of civil rights, except as otherwise provided for by law”.

86. Article 20 of Act No. 5/93 stipulates that authorization for residence shall be granted by the competent Government services to foreign citizens holding a residence visa for the exercise of professional activities.⁶

87. As a general rule, foreigners may leave Mozambique on a voluntary basis. Exceptionally, departure may be prohibited when the competent authority receives official notification that the citizen in question is the subject of an arrest warrant or that his or her departure from the country has been prohibited.

88. Cases of forced departure occur when a foreign citizen is obliged to leave the country, for reasons of extradition or expulsion, in accordance with the relevant legislation.

89. Expulsion may be administrative or judicial (arts. 29 and 30). Administrative expulsion is applied, without prejudice to the provisions of international treaties or conventions, in the following cases:

- (a) Illegal entry;
- (b) Attempts against national security, public order or public morals;
- (c) Involvement in the political life of the country without being duly authorized by the Government;

⁶ The residence visa is obtained by meeting the following requirements: the potential holder of the visa must be present; he or she must be considered to have reached the age of majority in accordance with the law; such person must not have been denied entry into Mozambique, or have been expelled or declared persona non grata; he or she must not be engaged in activities liable to be punished by expulsion; and such person must prove that he or she has the means of subsistence or other means considered necessary.

(d) Failure to abide by the Constitution and other national laws applicable to foreigners;

(e) Commission of acts that would have prevented entry into the country if the Mozambican authorities had had prior knowledge of such acts.

90. The measure of administrative expulsion may be subject to hierarchical appeal to the Council of Ministers or the Supreme Court. The migration services are entitled, whenever they become aware of an act that constitutes grounds for expulsion, to initiate the relevant proceedings within a period of eight days.

91. Judicial expulsion is applied additionally, without prejudice to the provisions of criminal legislation, in accordance with article 30 of Act No. 5/93, in the following cases:

(a) A foreign citizen who does reside in the country, who has been sentenced by a court for an intentional crime to punishment in excess of six months;

(b) A foreign citizen who has been residing in the country for less than five years and has been sentenced by a court for an intentional crime to punishment in excess of one year in prison;

(c) A foreign citizen who has been residing in the country for more than 5 years and less than 15 years and has been sentenced to punishment exceeding 2 years' imprisonment;

(d) A foreign citizen who has been residing in the country for more than 15 years and has been sentenced to a serious punishment.

E. Foreign citizens' entry into, departure from and residence in Mozambique

92. Foreign citizens' entry into, departure from and residence in Mozambique are described in statistical data showing the number of migratory movements through the country's border-crossing posts.

Table 8

Movement of travellers, by country of habitual residence and reason for travel, in 2003⁷

Country	Business	Official	Tourism	Transit	Visit	Work	Mining	Other	Total
Angola	103	257	310		307	190	7	38	1 212
Botswana	346	161	391	194	631	46		14	1 783
Brazil	341	108	218	91	302	142		101	1 303
Burundi	19	58	7		5				89
Canada	158	55	254	17	65	36		41	626
Cape Verde		12	7		2	10		14	45

⁷ Ministry of the Interior, National Migration Directorate, Department of Planning and Statistical Information.

Table 8 (continued)

Country	Business	Official	Tourism	Transit	Visit	Work	Mining	Other	Total
China	394	228	314	41	26	142		118	1 263
Democratic Republic of the Congo	238	31	38	22	120	2		70	521
Cuba	5	53	10	5	5	34		12	124
Denmark	154	43	502	5	139	41		7	891
France	626	91	811	29	96	130		58	1 814
Germany	302	334	3 127	22	1 469	374	5	154	5 787
Hong Kong	12		7						19
India	326	269	900	24	542	86		605	2 752
Italy	461	204	1 879	84	530	367		506	4 031
Japan	194	55	1 303	120	14	19		12	1 717
Kenya	509	490	1 008	96	62	36		718	2 919
Lesotho	60	163	288	2	12	12	5	19	561
Malawi	32 395	2 016	4 723	54 358	9 670	3 295	65	5 762	112 284
Malaysia	12	5	163		2	12		7	201
Mauritius	127	62	70	2		166		463	890
Mozambique	47 866	10 961	45 139	5 882	28 145	16 075	2 998	75 905	232 971
Namibia	122	194	425	10	26	22		55	854
Netherlands	552	557	3 346	55	206	228	5	360	5 309
Nigeria	110	77	125		132	41		36	521
Norway	343	180	298		41	228		41	1 131
Pakistan	317	106	610	29	187	12	10	929	2 200
Portugal	2 834	756	12 367	240	3 953	2 006	5	2 342	24 503
Guinea-Bissau	17	38	91	5	17	12		34	214
Rwanda		7	17						24
Saudi Arabia	14	5	5						24
Somalia	5		2	96	2				105
South Africa	65 609	8 815	81 934	11 686	62 105	25 106	10 620	41 150	307 025
Zimbabwe	41 674	1 457	8 803	25 070	20 551	7 006	26	4 728	109 315
Spain	108	144	557	53	134	221		122	1 339
Swaziland	6 374	559	3 658	720	4 171	926	17	2 059	18 484
Sweden	187	79	456		89	108		53	972
Switzerland	58	38	228	101	247	26		14	712
United Arab Emirates	5	5	5						15
Russian Federation	46	115	386	17	5	50		41	660
United Kingdom	1 272	432	2 616	422	401	372		180	5 695
United Republic of Tanzania	1 003	341	305	1 082	739	38		235	3 743
United States of America	1 286	682	1 411	130	509	410	62	430	4 920
Zambia	1 138	175	370	446	499	146	2	168	2 944
Others	5 806	2 227	6 768	2 735	4 936	2 506	539	120 802	146 309
Total entries	213 528	32 645	186 252	103 891	141 094	60 679	14 366	258 403	1 010 858

Table 9**Movement of travellers, by country of habitual residence
and by sex, in 2003⁸**

Country	Men	Women	Total
Angola	857	394	1 251
Botswana	1 613	259	1 872
Brazil	838	506	1 344
Burundi	86	17	103
Canada	367	312	679
Cape Verde	46		46
China	1 054	247	1 301
Democratic Republic of the Congo	314	230	544
Cuba	91	34	125
Denmark	626	262	888
France	1 274	610	1 884
Germany	3 610	2 222	5 832
Hong Kong	12	7	19
India	2 506	346	2 852
Italy	3 180	898	4 078
Japan	1 138	602	1 740
Kenya	2 590	348	2 978
Lesotho	374	187	561
Malawi	90 108	30 782	120 890
Malaysia	187	14	201
Mauritius	538	367	905
Mozambique	159 281	123 996	283 277
Namibia	410	463	873
Netherlands	2 875	2 772	5 647
Nigeria	434	120	554
Norway	739	401	1 140
Pakistan	2 076	307	2 383
Portugal	13 798	11 522	25 320
Guinea-Bissau	178	41	219
Rwanda	17	12	29
Saudi Arabia	29		29
Somalia	106		106
South Africa	250 202	83 534	333 736
Zimbabwe	79 517	35 102	114 619
Spain	838	502	1 340
Swaziland	12 055	7 846	19 901
Sweden	542	458	1 000
Switzerland	449	274	723
United Arab Emirates	12	2	12
Russian Federation	372	379	751
United Kingdom	3 694	2 100	5 794
United Republic of Tanzania	2 923	847	3 770
United States of America	2 914	2 119	5 033
Zambia	1 956	1 090	3 046
Others	34 596	16 905	51 501
Total entries	681 422	329 436	1 010 858

⁸ Ministry of the Interior, National Migration Directorate, Department of Planning and Statistical Information.

Table 10
Statistical data on migratory movements⁹

Categories	Year										Total
	2000		2001		2002		2003		2004		
	Entries	Exits	Entries	Exits	Entries	Exits	Entries	Exits	Entries	Exits	
Nationals residing in Mozambique	3 150 755	587 759	959 829	632 870	319 558	272 912	362 633.3	350 517	137 063	126 237	6 900 133
Nationals residing abroad	115 454	125 356	72 673	71 525	49 835	48 004	23 017	28 728	12 546	11 458	558 596
Diplomats residing in Mozambique	26 469	35 783	8 698	7 347	4 657	4 592	2 496	2 126	4 012	3 548	99 728
National diplomats residing abroad	2 627	1 951	2 589	3 533	2 357	2 087	1 063	1 214	1 677	1 050	20 148
Returnees	875		8 414		1 158		1 558		520		12 525
Miners	330 026	318 417	470 114	667 013	126 674	167 922	172 347	162 575	41 208	59 688	2 515 984
Nationals repatriated from abroad	4 028		72 428		43 496		64 306		20 072		204 330
Foreigners residing in Mozambique	72 004	85 322	175 261	145 849	81 203	98 543	33 408	36 186	13 900	15 008	756 684
Foreigners residing abroad	103 994	297 774	441 229	522 932	410 808	530 871	566 128	545 129	156 141	166 247	3 741 253
Foreign diplomats residing in Mozambique	6 280	9 425	7 992	15 362	4 551	4 496	3 238	2 969	3 052	2 110	59 475
Foreign diplomats residing abroad	4 907	1 296	4 659	2 821	2 312	2 107	3 038	2 908	3 452	4 225	31 725
Repatriated foreigners		291		238		318		1 718		264	2 829
Crewmembers in transit	4 800	4 800	4 704	4 704	2 503	2 503	650	650	3 923	3 923	33 160
Seamen	2 192	9 286	6 531	6 543	1 006	1 090	7 384	7 780	13 363	10 179	65 354
Refugees	152		1 031		2 123		195		458		3 959
Expelled persons				55							55
National border facilities	277 897	277 897	281 345	281 345	226 478	226 701	56 422	56 422	24 875	24 875	1 734 257
Foreign border facilities	171 186	171 186	263 125	263 125	430 248	430 248	212 817	212 817	73 611	73 611	2 301 974
Total	4 273 646	1 926 543	2 780 622	2 625 262	1 708 967	1 792 394	1 510 700	1 411 739	509 873	502 423	19 042 169

⁹ Ministry of the Interior, National Migration Directorate, Department of Planning and Statistical Information.

Table 11**Entry and exit of travellers through border-crossing posts, 2003¹⁰**

Post	Entry	% Exit		% Total		%
Mavalane	110 114	10.9	89 326	10.4	199 440	10.7
Ressano Garcia	399 571	39.5	322 358	37.7	721 929	38.7
Namaacha	170 784	16.9	138 221	16.2	309 005	16.6
Ponta Douro	18 602	1.8	9 130	1.1	27 732	1.5
Vilanculos	14 794	1.5	14 412	1.7	29 206	1.6
Machipanda	48 722	4.8	49 942	5.8	98 664	5.3
Rodoviária						
Espungabeira	1 980	0.2	2 057	0.2	4 037	0.2
Cuchamano	119 388	11.8	112 313	13.1	231 701	12.4
Vila Nova da	408	0.0	278	0.0	686	0.0
Fronteira						
Zobue	121 150	12.0	112 308	13.1	233 458	12.5
Cazacatiza	1 805	0.2	1 702	0.2	3 507	0.2
Colomue	3 540	0.4	3 485	0.4	7 025	0.4
Total	1 010 858	100.0	855 532	100.0		100.0

Table 12**Entry and exit of travellers by principal countries of habitual residence, 2003¹¹**

Post	Entry	% Exit		% Total		%
Mozambique	284 705	28.2	233 748	27.3	518 453	27.8
South Africa	335 426	33.2	270 984	31.7	606 410	32.5
Malawi	121 267	12.0	114 310	13.4	235 577	12.6
Zimbabwe	114 936	11.4	97 294	11.4	212 230	11.4
Portugal	25 392	2.5	15 523	1.8	40 915	2.2
Swaziland	20 018	2.0	28 682	3.4	48 700	2.6
Germany	5 842	0.6	2 465	0.3	8 307	0.4
United Kingdom	5 798	0.6	6 694	0.8	12 492	0.7
Netherlands	5 666	0.6	3 542	0.4	9 208	0.5
United States	5 035	0.5	6 463	0.8	11 498	0.6
of America						
Others	86 718	8.6	75 807	8.9	162 525	8.7
Others, unspecified	55	0.0	20	0.0	75	0.0
Total	1 010 858	100.0	855 532	100.0	1 866 390	100.0

¹⁰ Ministry of the Interior, National Migration Directorate, Department of Planning and Statistical Information.

¹¹ Ministry of the Interior, National Migration Directorate, Department of Planning and Statistical Information.

Table 13**Entry and exit of tourists through the principal border-crossing posts, 2003¹²**

Post	Entry	% Exit		% Total		%
Mavalane	70 176	907	35 296	15.1	105 472	11.0
Ressano Garcia	275 165	37.9	103 346	44.2	378 511	39.4
Namaacha	78 823	10.9	59 930	25.6	138 753	14.5
Ponta Douro	16 858	2.3	266	0.1	17 124	1.8
Vilanculos	14 494	2.0	1 478	0.6	15 972	1.7
Machipanda	39 713	5.5	22 058	9.4	61 771	6.4
Rodoviária						
Espungabeira	1 572	0.2	631	0.3	2 203	0.2
Cuchamano	117 175	16.1	1 555	0.7	118 730	12.4
Vila Nova da Fronteira	103	0.0	127	0.1	230	0.0
Zobue	108 617	15.0	7 183	3.1	115 800	12.1
Cazacatiza	1 490	0.2	221	0.3	1 711	0.2
Colomue	1 913	0.3	1 656	0.7	3 569	0.4
Total	726 099	100.0	233 747	100.0	959 846	100.0

Table 14**Entry and exit of travellers through border-crossing posts, 2004¹³**

Post	Entry	% Exit		% Total		%
Mavalane	102 634	14.4	108 429	15.4	211 063	14.9
Ressano Garcia	311 365	43.8	313 656	44.6	625 021	44.2
Namaacha	88 583	12.5	77 800	11.1	166 383	11.8
Ponta Douro	14 728	2.1	6 974	1.0	21 732	1.5
Vilanculos	12 983	1.8	12 270	1.7	25 253	1.8
Machipanda	47 903	6.7	41 504	5.9	89 407	6.3
Rodoviária						
Espungabeira	3 059	0.4	3 404	0.5	6 463	0.5
Cuchamano	12 050	1.7	13 666	1.9	25 716	1.8
Vila Nova da Fronteira	270	0.0	190	0.0	460	0.0
Zobue	107 057	15.1	116 291	16.5	223 348	15.8
Cazacatiza	1 856	0.3	2 176	0.3	4 032	0.3
Colomue	8 542	1.2	7 373	1.0	15 915	1.1
Mozambique	236 534	33.3	219 404	31.2	455 938	32.2
South Africa	228 104	32.1	236 011	33.5	464 115	32.8
Malawi	74 933	10.5	92 738	13.2	167 671	11.9

¹² Ministry of the Interior, National Migration Directorate, Department of Planning and Statistical Information.

¹³ Ministry of the Interior, National Migration Directorate, Department of Planning and Statistical Information.

Table 14 (continued)

Post	Entry	% Exit		% Total		%
Zimbabwe	65 896	9.3	45 326	6.4	111 222	7.9
Swaziland	17 773	2.5	13 993	2.0	31 766	2.2
Portugal	11 898	1.7	15 680	2.2	27 578	1.9
United States of America	5 647	0.8	7 158	1.0	12 805	0.9
United Kingdom	60 700	0.9	5 884	0.8	12 584	0.9
Germany	2 885	0.4	3 107	0.4	5 992	0.4
Netherlands	2 867	0.4	2 757	0.4	5 624	0.4
Italy	2 574	0.4	3 016	0.4	5 590	0.4
France	2 759	0.4	2 673	0.4	5 432	0.4
Other countries	26 825	3.8	25 983	3.7	52 808	3.7
Others, unspecified	25 665	3.6	30 003	4.3	55 668	3.9
Total	711 060	100.0	703 733	100.0	1 414 793	100.0

Table 15**Entry and exit of tourists through border-crossing posts, 2004¹⁴**

Post	Entry	% Exit		% Total		%
Mavalane	68 329	14.4	40 885	18.6	109 214	15.7
Ressano Garcia	187 243	39.5	97 720	44.5	284 963	41.1
Namaacha	39 165	8.3	39 768	18.1	78 933	11.4
Ponta Douro	13 447	2.8	311	0.1	13 758	2.0
Vilanculos	12 756	2.7	709	0.3	13 465	1.9
Machipanda Rodoviária	40 384	8.5	20 814	9.5	61 198	8.8
Espungabeira	2 624	0.6	1 436	0.7	4 060	0.6
Cuchamano	11 882	2.5	214	0.1	12 096	1.7
Vila Nova da Fronteira	95	0.0	102	0.0	197	0.0
Zobue	92 238	19.4	13 564	6.2	105 802	15.2
Cazacatiza	1 444	0.3	363	0.2	1 807	0.3
Colomue	4 900	1.0	3 518	1.6	8 418	1.2
Total	474 507	100.0	219 404	100.0	693 911	100.0

¹⁴ Ministry of the Interior, National Migration Directorate, Department of Planning and Statistical Information.

Table 16
Entry and exit of tourists through border-crossing posts, 2002-2004¹⁵

Post	2002	2003	2004		2002	2003	2004	
Mavalane	49 683	70 176	68 329	-2.6	25 626	35 296	40 885	15.8
Ressano Garcia	83 490	275 165	187 243	-32.0	131 007	103 346	97 720	-5.4
Namaacha	37 503	78 823	39 165	-50.3	61 581	59 930	39 768	-33.6
Ponta Douro	13 938	16 858	13 447	-20.2	186	266	311	16.9
Vilanculos	6 063	14 494	12 756	-12.0	81	1 478	709	-52.0
Machipanda Rodoviária	31 218	39 713	403 884	1.7	17 145	22 058	20 814	-5.6
Espungabeira	1 422	1 572	2 624	66.9	168	631	1 436	127.6
Cuchamano	40 665	117 175	11 882	-89.9	414	1 555	214	-86.2
Vila Nova da Fronteira	1 392	103	95	-7.8	624	127	102	-19.7
Zobue	75 237	108 617	92 238	-15.1	6 459	7 183	13 564	88.8
Cazacatiza	846	1 490	1 444	-3.1	234	221	363	64.3
Colomue	1 476	1 913	4 900	156.1	768	1 656	3 518	112.4
Total	342 933	726 099	474 507	-34.6	244 293	233 747	219 404	-6.1

Table 17
Entry and exit of tourists through border-crossing posts, 2002-2004¹⁶

Movement exits	Country	Business	Official	Tourism	Transit	Visit	Work	Mining	Other	Total
	Angola									
	Botswana									
	Brazil									
	Burundi									
	Canada									
	Cape Verde									
	China									
	Democratic Republic of the Congo									
	Cuba									
	Denmark									
	France									
	Germany									
	Hong Kong									
	India									
	Italy									
	Japan									
	Kenya									
	Lesotho									

¹⁵ Ministry of the Interior, National Migration Directorate, Department of Planning and Statistical Information.

¹⁶ Ministry of the Interior, National Migration Directorate, Department of Planning and Statistical Information.

Table 17 (continued)

Movement exits	Country	Business	Official	Tourism	Transit	Visit	Work	Mining	Other	Total
	Malawi									
	Malaysia									
	Mauritius									
	Mozambique									
	Namibia									
	Netherlands									
	Nigeria									
	Norway									
	Pakistan									
	Portugal									
	Guinea-Bissau									
	Rwanda									
	Saudi Arabia									
	Somalia									
	South Africa									
	Zimbabwe									
	Spain									
	Swaziland									
	Sweden									
	Switzerland									
	United Arab Emirates									
	Russian Federation									
	United Kingdom									
	United Republic of Tanzania									
	United States of America									
	Zambia									
	Others									
Total number of exits										

Movement exits	Country	Men	Women	Total
	Angola	718	278	996
	Botswana	1 250	773	2 023
	Brazil	490	473	963
	Burundi	12	7	19
	Canada	552	257	809
	Cape Verde	29	2	31
	China	984	434	1 418
	Democratic Republic of the Congo	298	67	365
	Cuba	41	17	58
	Denmark	343	350	693
	France	1 200	612	1 812
	Germany	1 553	859	2 412
	Hong Kong	65	17	82
	India	869	250	1 119
	Italy	1 838	648	2 486
	Japan	410	89	499
	Kenya	413	578	991
	Lesotho	142	115	257
	Malawi	78 679	35 268	113 947
	Malaysia	41		41
	Mauritius	727	233	960
	Mozambique	127 946	104 688	232 634
	Namibia	530	163	693
	Netherlands	1 814	1 723	3 537
	Nigeria	634	223	857
	Norway	442	281	723

93. Decree No. 57/2003 of 24 December 2003, together with labour legislation, establishes the legal framework for employing foreign citizens in national territory. Article 171 of Act No. 8/98 of 20 July 1998 (Labour Act) refers to the employment of foreign workers.

Table 21

**Statistical data on foreign citizens residing in Mozambique
for reasons of employment¹⁷**

Year	2000	2001	2002	2003	2004
Work authorizations	1 811	2 705	4 167	3 972	4 476
Work permits	1 387	1 587	1 628	1 541	1 932
Total	3 198	4 292	5 795	5 513	6 408

F. Foreign citizens who acquired citizenship through naturalization

94. Foreign citizens may acquire Mozambican citizenship through marriage, provided that they have resided in Mozambique for more than five years and express their wish to acquire Mozambican citizenship.

95. Foreign citizens may also be granted citizenship through naturalization, provided that they have habitually and regularly resided in Mozambique for at least 10 years, are at least 18 years of age, have a good knowledge of Portuguese, are legally capable and have civic aptitude.

96. The procedure for acquiring citizenship involves various State institutions. From 25 June 1975 to 31 December 2003, Mozambique granted 1,275 requests for citizenship, including:

- (a) 585 by reacquisition;
- (b) 665 by naturalization.

G. Measures taken by civil society

97. Civil society is composed of various institutions, namely political parties, NGOs, charitable institutions, religious institutions and other national and foreign organizations.

98. NGOs have the specific task of complementing the Government's programme to combat absolute poverty, through such activities as social assistance, promotion and protection of human rights and combating HIV/AIDS in Mozambique.

¹⁷ Ministry of the Interior, General Police Command, Department of Public Relations, and Ministry of Labour.

99. The measures taken by civil society are wide-ranging and include not only health assistance but also programmes that promote social harmony, irrespective of colour, race, ethnic origin and social position; these include awareness-raising, assistance to persons with HIV/AIDS, through the provision of antiretrovirals and material support for vulnerable children and orphans.

IV. INCIDENTS OF RACIAL DISCRIMINATION

100. Owing to the Government's consistent promotion of a policy of national unity and non-discrimination, combating all manifestations of discrimination based on ethnic or tribal origin, race, colour, gender or any other attribute, any incidents of discrimination that have occurred in the country have been sporadic and do not reflect an institutionalized policy.

101. Incidents of racial discrimination have their explanation in colonial history and in the mentality of subservience and racial superiority that some persons continue to have.

102. In this context, in certain environments, mainly in parts of the hotel industry, there is often unequal treatment, based on colour, in the services provided to customers; in such cases, white people or mestizos receive preferential treatment over black people.

103. Such treatment is often provided by citizens belonging to the black race who, as was mentioned earlier, still appear to have a mentality of subservience. On other occasions, such treatment is encouraged by foreign citizens, usually natives or former residents of countries where systems of discrimination were deeply rooted until relatively recent times.

104. The incidents that occur have elicited strong moral condemnation on the part of the general public and appropriate action by the Government.

PART II

INFORMATION ON ARTICLES 2 TO 7 OF THE CONVENTION

105. The Constitution does not mention international custom in any of its provisions, and the only references to international law are to be found in article 18, which reads as follows:

- “1. Validly approved and ratified international treaties and agreements shall enter into force in the Mozambican legal system once they have been officially published and as long as they are internationally binding on Mozambique;
- “2. Norms of international law shall have the same force in the Mozambican legal system as infra-constitutional legislative acts of the Assembly of the Republic and the Government, according to the respective manner in which they are received.”

106. In this regard, nothing prevents courts from directly applying the provisions of international conventions, since such conventions, once duly ratified or acceded to by the Assembly of the Republic or the Council of Ministers, assume the status of law or decree and are automatically incorporated into the domestic legal system. However, there have been no instances of the direct application of the provisions of such conventions by Mozambican courts.

I. Article 2: Adoption of policies to combat racism

107. Mozambique has not yet adopted a law on the elimination of racial discrimination that contains provisions for specific measures. However, there is a legal framework that protects victims of discrimination, namely articles 35 and 39 of the Constitution and the various provisions of legislation currently in force.

II. Article 3: Racial segregation

108. The Government of Mozambique has condemned policies of racial segregation since it achieved independence in 1975. In this regard, it supported the African National Congress in its struggle against the apartheid regime in South Africa and the combatants in Zimbabwe and Namibia during their struggle against the minority racist regimes of Southern Rhodesia and South Africa.

III. Article 4: Combating racist organizations

109. In Mozambique, organizations that promote or incite racial discrimination are prohibited by Act No. 8/91 (Associations Act). Associations have the duty to respect the Constitution and other legislation in force in the country.

IV. Article 5: Equality before the courts

110. The provisions of the Constitution and legislation in force in Mozambique give citizens the right to have access to the judicial system, thereby guaranteeing them the right to defence, the right to legal assistance and legal aid, as well as the right to challenge acts that violate the rights established in the country.

111. Indeed, the Institute for Legal Assistance and Aid was established in response to the need to provide citizens with the assistance guaranteed by the State. The Institute, which is subordinate to the Ministry of Justice, is responsible for providing such assistance.

112. By way of example, the provisions of articles 62 and 65 of the Constitution are cited below:

“Article 62. Access to the courts

- “1. The State shall guarantee that citizens have access to the courts and that persons charged with a crime have the right to defence and the right to legal assistance and aid;
- “2. The accused shall have the right freely to choose a defence counsel to assist in all acts of the proceedings. It shall be ensured that adequate legal assistance and aid is given to accused persons who, for economic reasons, are unable to engage their own attorney.”

“Article 65. Principles of criminal proceedings

- “1. In criminal proceedings, the right to defence and to trial is an inviolable right guaranteed to every accused person;
- “2. Criminal trial hearings shall be public, except insofar as it is prudent to exclude or restrict publicity in order to safeguard personal, family, social or moral privacy, or for material reasons of trial security or public order.”

V. Article 6: Effective compensation for damages

113. In accordance with the Constitution and legislation in force in Mozambique, all citizens have access to the judicial system. In cases involving criminal responsibility, the provisions of articles 26, 27 and 52 of the Criminal Code apply and, in cases involving civil responsibility, articles 483 and 501 of the Civil Code apply. On this basis, citizens can invoke violations of the provisions of the Criminal Code and the Civil Code in order to obtain compensation for damages. The Criminal Code is currently being reviewed and consideration will be given to establishing criminal responsibility for acts involving racial discrimination, xenophobia and other forms of intolerance.

114. Article 217 of the Constitution stipulates that judges shall be independent and shall owe obedience only to the law. The same article provides that judges shall be impartial and unaccountable and shall be irremovable, inasmuch as they cannot be transferred, suspended, retired or dismissed, except in cases established by law.

VI. Article 7: Education and information

115. Education in Mozambique is one of the Government’s priorities; it is a way of making use of the diversity of individuals and social groups as a factor for cohesion. The main challenge is to educate citizens who are capable of contributing to improving life at the family, community and national level by upholding the following principles:

- (a) Preservation of national unity;
- (b) Maintenance of peace;
- (c) Respect for human rights;
- (d) Preservation of Mozambican culture.

116. Education programmes contain information on human rights, civil rights and the peaceful settlement of disputes. These cross-cutting themes deal with the following:

- (a) Dignity of the human person, respect for human rights, repudiation of all forms of discrimination, access to decent living conditions, mutual respect;
- (b) Equality of rights and possibility of exercising civil rights;
- (c) Participation in democratic principles and respect for differences;

- (d) Shared responsibility for social life and for the well-being of the community;
- (e) Healthy life (health/hygiene, physical and intellectual development, self-knowledge and self-esteem);
- (f) Tolerance, respect and the peaceful settlement of disputes;
- (g) Notion of the family, schoolmates and their families, rights and duties of members;
- (h) School as a factor in personal and collective progress, internal regulations of schools, rights of the child, education as a right and duty.

117. Basic education curricula include information on human rights and awareness of the following international legal instruments of the United Nations and the African Union:

- (a) Charter of the United Nations;
- (b) Universal Declaration of Human Rights;
- (c) International Convention on the Elimination of All Forms of Racial Discrimination;
- (d) African Charter on Human and People's Rights;
- (e) Convention on the Rights of the Child;
- (f) African Charter on the Rights and Welfare of the Child.

118. Institutions of higher education, particularly the law faculties of the various universities, deal with these subjects in the discipline of public international law. With the introduction of the new academic curriculum for higher education, human rights have become a separate mandatory discipline.

119. In order to provide the police of Mozambique with training in the legal sciences, Decree No. 24/99 of 18 May 1999 created the Academy of Police Sciences, a higher educational institution that receives financial support from the European Union and the Spanish Government.

VII. Conclusion

120. The Republic of Mozambique is guided by the principle of the equality of citizens before the law. Citizens have the same rights and duties, irrespective of colour, race, sex, ethnic origin, place of birth, religion, level of education, social position or political preference.

121. The present report indicates that in Mozambique there are no cases relating to racial discrimination, xenophobia or other forms of intolerance. The Government of Mozambique pursues a policy of national unity as a way of establishing harmony and promoting equality and preventing racial discrimination.

122. Its policy of national unity and its efforts to combat racial, tribal or ethnic discrimination, including measures to combat inequalities between men and women, goes back to the time when the seed of the nation was being sown, during the struggle for national liberation against Portuguese colonial domination.

123. Already at that time, the liberation movement, which today is represented by the political party FRELIMO, defended those values and created the women's detachment in its military service. The women's detachment performed the greatest acts of heroism and dedication to the fatherland in the history of the country. Already at that time, "Mozambicanness" - the unity of the nation, irrespective of colour, race or ethnic or tribal origin - was defended.

124. The Government continues to promote these values, which were consolidated when, owing to its geographic proximity, Mozambique was subjected to acts of aggression by the apartheid regime of South Africa and the minority racist regime of Southern Rhodesia, because Mozambique condemned those racist regimes and gave its unconditional support to the struggle of those peoples.

125. Over 30 years have passed since Mozambique gained its independence; half of that time was spent in wars provoked by foreigners with a view to destabilizing the country. Today, Mozambique is living in an environment of peace and tranquility, which permits the full involvement of its population in the country's economic and social life through its active participation in the various processes of national debate on different subjects.

126. Lastly, all public and private institutions, as well as members of civil society in general, irrespective of their social position or ethnic origin, are deeply involved in electoral processes, either in general or local elections, in the definition of strategies and approaches to socio-economic development, and in the area of the Government's policy of inclusion.
