

THE AUDIO VISUAL AND CINEMA LAW



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Law no. 1/2017 of 6 January - the Audio Visual and Cinema Law (*Lei do Audio Visual e do Cinema* - "LAVC") was recently approved. This law regulates audio visual and cinematographic activity, and complements Decree no. 41/2000 of 31 October, which created the National Audio Visual and Cinema Institute (*Instituto Nacional de Audiovisual e Cinema* - "INAC"), which is the regulatory authority for the audio visual and cinema sector.

The LAVC creates the conditions for the INAC to put its objectives into effect. The INAC's aim is to establish principles for action by the State and by Mozambican and international businesses to foster, develop and protect cinematic art and audio visual and cinematographic activity. The Institute also aims to establish the legal framework applicable to production, distribution, exhibition and broadcasting of all audio visual and cinematographic works.

With the LAVC's entry into force, all acts relating to the creation - including its interpretation and execution, direction, production, distribution, exhibition and broadcasting, whether wireless or not - of audio visual and cinematographic works, and their conservation, are subject to this legislation, without prejudice to the complementary legislation that may apply in any specific case.

One important way of achieving this is the relationship that should be established between the INAC and Law no. 4/2001 27 February - the Law of Copyright and Connected Rights (*Lei dos Direitos de Autor e Direitos Conexos* - "LDA") This is because, on the one hand, the authors of audio visual and cinematic works benefit from copyright under the LDA and, on the other, because the audio visual and cinematographic works in question must be created and used in compliance with the provisions of the LAVC.

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A highlight of the LAVC is the State's focus on incentivising and promoting audio visual and cinematographic activity, and that focus can be seen, among others, in the fact that:

- The State has created a regulatory body for the audio visual and cinema sector, namely the INAC (even though the INAC was created long before the approval of the LAVC);
- The State has introduced a set bonus and stimulus measures aimed at the professionals who, in any way, stand out for their achievements in audio visual and cinematographic production, under the terms of article 9 of LAVC;
- The State has established a programme to promote audio visual and cinematographic activity which involves, among others, financial support for producers and directors under the terms of articles 12 and 13 of the LAVC;
- The State has made provision for content related to the audio visual and cinematographic arts to be introduced into the national education system.

The following stand out among the requirements imposed by the LAVC:

- Under the terms of article 8 of the LAVC, the legal deposit of audio visual and cinematographic works mandatory. Therefore, once they have been created, the works must be deposited in the Mozambican film archive, which is the body responsible for managing the deposit of works;
- Under article 11 of the LAVC, the filming or recording of audio visual and cinematographic works in any part of Mozambican territory requires the authorisation of the INAC;

- Under article 12 of the LAVC, whenever the process of filming or recording scenes relating to audio visual and cinematographic works could create situations that involve, danger, explosions, fires, booms, any abnormal noises or any other situation that results in risk or disturbance, the producer of the work must, among other preventive measures, provide a security guarantee. If any harm is caused to third parties, the producer is responsible for indemnifying or compensating those affected;
- Under article 15 of the LAVC, any foreign production in Mozambican territory must be regulated by the Council of Ministers. This is because it is necessary to define the rights and obligations of those involved in this process;
- Under article 18 of the LAVC, the production, distribution, sale, rental and loan of audio visual and cinematographic works destined for commercial use, require a licence issued by the INAC. A fee is payable in the case of the distribution licence;
- Under article 19 of the LAVC, it is mandatory for foreign-language audio visual and cinematographic works destined for commercial use to be subtitled or dubbed in the official language of Mozambique, except when the works in question are exclusively destined to be screened in cinemas that specialise in showing foreign works in the original language, or in exhibitions or special cinema and video series;
- Under article 21 of the LAVC, the exhibition of audio visual and cinematographic works, whether they consist in advertising not, is subject to presenting proof of registration of the work and compliance with deposit at the Mozambican film archive;

- Under article 24 of the LAVC, access to premises that exhibit audio visual and cinematographic works is subject to age-classification criteria based on the content and the screening times of the works;
- Under article 27 of the LAVC, audio visual and cinematographic works must bear self-adhesive labels for identification purposes and holograms to prevent counterfeiting;
- Under article 28 of the LAVC, engaging in audio visual and/or cinematographic activity is subject to prior registration with the INAC or with any other body to which registration powers have been delegated.

The supervision of audio visual and cinematographic activities and the application of any sanctions arising from violations in this context is the responsibility of the National Inspectorate of Economic Activities (*Inspecção Nacional das Atividades Económicas* - "INAE"), in coordination with the inspectorate that supervises cultural matters. finally, the ability of this legislation to function effectively is, to a certain extent, subject to regulations being introduced for some of its provisions. Among the important matters that require regulation are (i) the definition and award of bonus and stimulus measures, (ii) the formalities for access to financial support for audio visual and cinematographic activities, and (iii) the fees for the issue of distribution licences.

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