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## **National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\***

### **Cape Verde**

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## **I. The country and its political system and regulatory framework**

### **A. Country profile**

1. Cape Verde is a small archipelago covering 4,033 square kilometres and consisting mostly of volcanic rock. Located in the Sahel region, it is poor in natural resources. It graduated from the United Nations category of least developed countries in 2008 and is now in the World Bank's group of lower-middle-income countries.
2. On the basis of the 2010 census, as at 2011, the resident population is estimated at 499,929, of whom 50.5 per cent are women, and the average annual growth rate at 1.14 per cent. Residents of rural areas represent 38.2 per cent, and urban residents 61.8 per cent, of the population. Women are in the majority in both urban and rural areas, comprising 50.2 per cent and 51 per cent of the population, respectively.
3. The average life expectancy as at 2011 is 69.9 years for men and 79.2 years for women. The population pyramid has a fairly broad base with 54 per cent under the age of 24, 6 per cent over the age of 65 and 32 per cent under the age of 15. The average and median ages of the population are 26.8 and 22, respectively.
4. The fertility index was 6.3 in the early 1980s and is now (as at 2011) 2.39; among adolescents aged 15 to 19, the fertility rate is 19 per cent. The overall mortality rate is 5.1 per thousand; the maternal mortality rate is 48.4 per 100,000 and the infant mortality rate is 23 per thousand. The prevalence of HIV/AIDS is 1.1 per cent in the general population and 0.4 per cent among women.
5. Cape Verde has the rank of 118 on the 2010 United Nations Human Development Index with a human development index of 0.534.

### **B. Profile of the political system**

6. Cape Verde is a sovereign, united, democratic republic that has been independent since 1975. Prior to the adoption of its first Constitution in 1980, its political system was governed by the Act on the political organization of the State.
7. The 1990 Constitution Act on the review of the Constitution (Constitution Act No. 2/III/90 of 28 September 1990) enshrined the principle of political pluralism, thereby making it possible to hold the country's first free, democratic legislative and presidential elections in January and February 1991, respectively, and leading subsequently to two changes in the ruling party and three presidential transitions, all of them peaceful.
8. The State recognizes the inviolability and inalienability of human rights as the basis of all human communities and of peace and justice. It recognizes the equality of all citizens before the law, without distinction as to social origin, economic situation, race, sex, religion, political or ideological convictions or social status, and ensures the full enjoyment of basic freedoms by all citizens (art. 1 of the Constitution of the Republic of Cape Verde, hereinafter "the Constitution").
9. The State recognizes and respects the separation and interdependence of powers, the separation of church and State, the independence of the courts, the existence and autonomy of local authorities and the democratic decentralization of the public administration (art. 2, para. 2 *in fine* of the Constitution).

### **C. National, regional and international regulatory framework**

10. Article 12 of the Constitution states that general international law or common law is an integral part of Cape Verde's legal system under the principle of automatic reception.

11. Duly approved or ratified international treaties and agreements are in force in perpetuity within the legal system of Cape Verde and place Cape Verde under an international obligation as soon as they have been officially published in the country and have entered into force in the international legal system. By the same token, legal decisions of the competent bodies of supranational organizations of which Cape Verde is a member are of direct application under domestic law, provided that this is established in their constituent instruments.

12. Following their entry into force in the international and domestic legal systems duly approved or ratified standards and principles of general international law or common law and of international treaty law take precedence over subconstitutional domestic laws and regulations.

13. Cape Verde adheres to the principles of respect for international law and for human rights, equality among States, non-interference in the internal affairs of other States, reciprocity of benefits, cooperation with all other peoples and peaceful coexistence. It has signed, ratified or acceded to various international and regional treaties, covenants and conventions.

14. The national legal framework includes the following instruments for the promotion and protection of human rights:

(a) The Constitution, which contains a fairly thorough list of "rights, freedoms and guarantees" and "civil, political, economic, social and cultural rights and duties", preserving them as enshrined in the international human rights treaties and conventions;

(b) Subconstitutional legislation, including the Penal Code, the Code of Criminal Procedure, the Code of Civil Procedure (the family record book), the Civil Registry Code, the Commercial Code, the Labour Code, the Electoral Code, the tax laws and the Gender-Based Violence Act.

15. At the regional level, Cape Verde, as a member State of the African Union and the Economic Community of West African States (ECOWAS), is a party to the primary human rights instruments:

(a) The African Charter of Human and Peoples' Rights (1987);

(b) The African Charter on the Rights and Welfare of the Child (1993);

(c) The African Youth Charter (2010);

(d) The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2005).

16. At the international level, Cape Verde has ratified the following eight of the nine basic United Nations human rights treaties:

(a) The International Convention on the Elimination of All Forms of Racial Discrimination;

(b) The Convention on the Elimination of All Forms of Discrimination against Women;

(c) The Convention on the Rights of the Child;

- (d) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- (e) The International Covenant on Civil and Political Rights;
- (f) The International Covenant on Economic, Social and Cultural Rights;
- (g) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
- (h) The Convention on the Rights of Persons with Disabilities.

17. In addition to the aforementioned covenants and conventions, Cape Verde has ratified and/or acceded to five of the eight optional protocols thereto:

- (a) The First Optional Protocol to the International Covenant on Civil and Political Rights;
- (b) The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;
- (c) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;
- (d) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography;
- (e) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

## **II. Implementation of the recommendations made during the first Universal Periodic Review (2008)**

### **A. The process of drafting the report**

18. The process of drafting the report began with the preparation of a national strategy document on follow-up to the outcomes and recommendations of the United Nations human rights mechanisms, with technical assistance funded by the United Nations Office in Cape Verde and under the general guidance of the Ministry of Justice. Various public institutions and non-governmental organizations (NGOs), including, among others, the Ministry of Justice, the Ministry of Foreign Affairs, the National Commission for Human Rights and Citizenship (CNDHC), the Cape Verdean Institute for Gender Equality and Equity (ICIEG), the Cape Verdean Institute for Children and Adolescents (ICCA) and the non-governmental Zé Moniz Association were involved in preparing the draft document, in organizing awareness-raising workshops, and ultimately in its adoption.

19. The present report was then drafted, on the basis of the eight themes set out in the strategy document, by a working group established by the Ministry of Justice and the Ministry of Foreign Affairs.

20. The 50 recommendations made during the first Universal Periodic Review of Cape Verde were clustered into eight general areas (see below).

### **B. Strengthening of the national human rights protection system**

21. In accordance with the recommendations made at the World Conference on Human Rights, held in Vienna in 1993, and in the context of Commission on Human Rights

resolution 154 of 3 March 1992, the Government established the National Human Rights Committee (CNDH) through Decree-Law No. 19/2001 of 24 September 2001.

22. Its establishment made it possible to move towards the Government justice sector programme objective, the systematic promotion of the fundamental human rights, and to meet the need — for which the Government has also assumed responsibility — for a body to support the promotion of humanitarian law.

23. In the interests of streamlining Government bodies, the areas of human rights and humanitarian law were placed under a single institution with a representative committee that brought together the various branches of Government involved in the promotion of human rights in the broad sense and gave NGOs a role as well.

24. The mandate of the CNDH included the protection and dissemination of human rights and humanitarian law; development of a strategy and preparation, implementation and assessment of a national human rights action plan; and preparation and submission of initial and periodic reports under international human rights and humanitarian law instruments.

25. Three years later, Decree-Law No. 38/2004 of 11 October 2004, by adopting the statute of the CNDHC and automatically abolishing the CNDH, recognized the need to grant the CNDHC autonomy and independence from the Government and private interests and to include the protection and affirmation of civic values in its mandate.

26. The responsibilities of the CNDHC include promoting education on human rights, international humanitarian law and citizenship, helping to set and implement public policy in these areas, advising the Government, investigating human rights violations and monitoring implementation of the national human and civil rights plan.

27. The draft of the new statute of the CNDHC was prepared in accordance with the Paris Principles; however, it will not come into force until the Office of the Ombudsman envisaged in article 21 of the Constitution is established. Consultations in Parliament are currently under way with a view to the parliamentary appointment and functioning of an Ombudsman.

### **C. Technical cooperation with international mechanisms**

28. Given that the issue of human rights is cross-cutting and common to all sectors of society, Cape Verde's public administration has promoted constructive dialogue on the subject with all its partners, both national and international.

29. The Government has also developed a framework for cooperation with international and regional human rights mechanisms. The primary purpose of these relationships is to implement, with international assistance, a plan on Cape Verde's fulfilment of its international obligations, particularly with regard to preparation of the various reports under the conventions that it has ratified.

30. With regard to the latter, Cape Verde has already submitted reports within the framework of the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of the Child. Approval of its first report under the International Covenant on Economic, Social and Cultural Rights is pending.

31. The United Nations system partners with Cape Verde in the drafting of these reports. At its headquarters and at the regional level, the Office of the United Nations High Commissioner for Human Rights (OHCHR) has supported the Government in this ongoing effort to ensure respect for and protection of human and civil rights.

32. At the invitation of the West Africa Regional Office of OHCHR, the United Nations Office for West Africa and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), Cape Verde recently participated in a regional conference on the ratification of international human rights instruments, including the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol to the Convention against Torture, held in Dakar from 24 to 26 September 2012.

33. From 15 to 17 October 2012, Cape Verde hosted a seminar on establishing national human rights institutions in the lusophone countries in accordance with the Paris Principles, sponsored by OHCHR and the Ombudsman of Portugal.

## **D. Ratification of international conventions**

### **1. The United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention against Discrimination in Education**

34. Although Cape Verde has not yet ratified the Convention against Discrimination in Education, its current regulatory framework incorporates, to a large extent, the legal regime enshrined therein.

35. Article 78, paragraph 1, of the Constitution establishes that everyone has the right to an education; paragraphs 3 and 4 list a number of related matters that the State is empowered to regulate.

36. In Act No. 103/III/1990 of 29 December 1990, the Government laid the foundations of the education system, which were subsequently modified by Act No. 113/V/1999 of 18 October 1999 and Legislative Decree No. 2/2010 of 7 May 2010.

37. The Framework Act on the Education System sets out the fundamental organizing and operational principles for Cape Verde's education system, including public, private and cooperative education. Particularly noteworthy are the principle of free access to the education system and the State's provision of universal, compulsory education through grade ten and of eight years of universal, compulsory primary education at no cost.

38. Existing data indicate that parity of access at all levels of education is a reality in Cape Verde. In preschool, the net enrolment rates for girls and boys were 59.9 per cent and 60.5 per cent in 2006 and 62.3 per cent and 63 per cent, respectively, in 2007. In comprehensive primary education, the enrolment rates of girls and boys, respectively, rose from 93.8 per cent and 94.9 per cent during the 2006/07 academic year to 87.6 per cent and 89.9 per cent during the 2008/09 academic year. At the secondary level, the school attendance rate has risen more sharply for girls than for boys since the 2006/07 academic year, standing at 67 and 57.1 per cent, respectively, for the 2008/09 academic year (see the 2010 Millennium Development Goals Report).

39. In short, the Framework Act on the Education System and current practice satisfy the requirements laid down in the Convention against Discrimination in Education, to which Cape Verde is in the process of acceding.

### **2. The Convention relating to the Status of Refugees**

40. Cape Verde has not ratified the Convention relating to the Status of Refugees; it has, however, been a party to the Protocol relating to the Status of Refugees and the Convention Governing the Specific Aspects of Refugee Problems in Africa since 1987.

41. The Government and Parliament clearly have the political will to approve the ratification of this Convention during the first half of 2013.

**3. The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women**

42. The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women was ratified on 15 February 2011 and entered into force in Cape Verde's legal system on 10 January 2012.

**4. The International Convention for the Protection of All Persons from Enforced Disappearance**

43. Cape Verde signed the International Convention for the Protection of All Persons from Enforced Disappearance on 6 September 2007.

44. The Convention is expected to be ratified during the first half of 2013. Ratification will require the Government to adopt legislative measures and, in particular, to amend the Penal Code in order to criminalize enforced disappearance.

**5. The Convention on the Rights of Persons with Disabilities**

45. The Convention on the Rights of Persons with Disabilities was approved for ratification on 15 February 2011 and entered into force in Cape Verde on 9 November 2011.

**6. The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

46. The intragovernmental process leading to ratification of the Optional Protocol to the Convention against Torture was initiated in 2011 and culminated in the signing of the instrument at the Treaty Event in New York on 26 September 2011.

47. The Minister for Foreign Affairs is working on this issue with a view to submitting to Parliament a Government proposal to approve the Optional Protocol for ratification; this could take place as early as the first quarter of 2013.

**7. The Rome Statute of the International Criminal Court and the Agreement on the Privileges and Immunities of the International Criminal Court**

48. The process leading to ratification of the Rome Statute of the International Criminal Court required amending the Constitution (art. 11, para. 8) in order to incorporate acceptance of the Court's jurisdiction into domestic law on the basis of complementarity and under the conditions set out in the Statute.

49. Cape Verde deposited its instrument of ratification on 10 October 2011 and became a State party to the Rome Statute as from 1 January 2012.

50. With a view to completion of the ratification procedure, the Government, in a letter to the Secretary-General of the United Nations, declared its intention to exercise jurisdiction over persons in its territory in respect of the crimes envisaged in article 5 of the Rome Statute, in accordance with the constitutional and criminal law in force in the Republic of Cape Verde.

51. With regard to article 87, paragraph 2, of the Statute, the Government stated that it preferred to receive requests for cooperation and supporting documents (drafted in or translated into Portuguese) through the diplomatic channel (via the Embassy of Cape Verde in Brussels).

52. The Agreement on the Privileges and Immunities of the International Criminal Court is currently under review by the Government.

## **E. Respect for and protection of children's rights**

53. Since independence, the question of children and adolescents has been an institutional priority for the Government, which has made a sustained effort to provide the country with a regulatory framework for accommodating developments in the area of children's rights.

54. The Constitution is clear on this matter; articles 74 and 90 deal with child and adolescent protection and development and the relationship of children and adolescents to their families and to the public authorities.

55. Furthermore, article 88 of the Constitution requires the State to cooperate with families in educating children and to protect children's rights.

56. In order to give effect to the constitutional principles concerning the rights of the child, legislative measures have been adopted through or within the framework of, *inter alia*, the Statute on Children and Adolescents (adoption pending), the Family Code, the Children's Code, the Civil Code, the Labour Code, the Penal Code and other legislation, namely Act No. 27/V/97 of 23 June 1997, which prohibits the sale and advertising of alcoholic beverages to minors; Act No. 41/VI/2004 of 3 April 2004, which ensures universal access to high-quality health services; and resolution 68/2010 of 29 November 2010, which established the minimum age for employment.

57. Domestic law is supplemented by the international conventions ratified by Cape Verde: the Convention on the Rights of the Child and its Optional Protocols on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography; the African Charter on the Rights and Welfare of the Child; the International Labour Organization (ILO) Conventions on the worst forms of child labour and on the minimum age for admission to employment and work; and the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.

58. The Cape Verdean Juvenile Institute was established in 1982 and replaced in 2006 by the ICCA, which is the institution responsible for promoting and implementing social policy on children and adolescents in Cape Verde and operates under the Ministry of Youth, Employment and Human Resource Development.

59. The ICCA has maintained a hotline since 2005 and its victim and family assistance service provides guidance in addressing problems through coordinated intervention by various partners, including the Public Prosecutor's Office, the judicial police, the national police, hospitals, health clinics and schools.

60. The United Nations Children's Fund (UNICEF), the ICCA and the judicial police are implementing a joint initiative that has established support centres for child victims of ill-treatment, abuse and sexual exploitation at judicial police stations on the islands of Santiago, São Vicente and Sal; the identities of victims and complainants are protected.

61. Responsibility for the protection of children's rights lies with municipalities through municipal child and adolescent protection committees that are coordinated by the ICCA and its local branches, such as offices, urgent care centres for children, protection and social reintegration centres, shelters and day-care centres, a network of host and foster families and "Nos Kaza" ("Our House") centres.

62. The Government, through the Department of Labour, the Labour Inspection Service and the ICCA, has trained local officials to combat child labour, particularly in its most degrading forms.

63. Cape Verde is involved in an ongoing regional project on the prevention and elimination of child labour in West African countries, financed by the ILO International Programme on the Elimination of Child Labour (IPEC), the purpose of which is to strengthen local institutions and to support the establishment and strengthening of responsible, effective mechanisms for promoting prevention and elimination of the worst forms of child labour. These initiatives have led ILO to set Cape Verde the challenge of joining the group of countries throughout the world that have eliminated child labour.

64. The following statistics will give a better idea of Cape Verde's situation with regard to the rights of the child.

65. The infant (children under one year of age) mortality rate has fallen from 26.2 per thousand in 2000 to 20.1 per thousand in 2009, while the under-five mortality rate has fallen from 31.9 per thousand in 2000 to 23.7 per thousand in 2009 and 23.0 per thousand in 2011.

66. There has been considerable progress in the area of child nutrition. The chronic malnutrition rate for children under five has fallen from 16 per cent in 1994 to 9.7 per cent in 2009; the same trend is seen in the acute malnutrition rate, which has fallen from 6 per cent in 1994 to 2.6 per cent in 2009.

67. In the school-age population, 90 per cent of children aged 6 to 17 attended school during the 2009/10 academic year. Primary education is universal and the vast majority of children are enrolled in the public school. The average class size is 24 students per teacher in the public education system, where a social service provides one hot meal per day to primary school students; this has, moreover, contributed to the decline in absenteeism and in the academic failure rate.

68. Secondary education is one of Cape Verde's remaining challenges in the area of education. While the enrolment and completion rates at all levels of secondary school increased considerably between 2001 and 2009, the dropout rate remained high. The completion rate for the third level of secondary school (twelfth grade) was 33.8 per cent in 2001 and 51.9 per cent in 2009; thus, only half of the children in that age group completed secondary school. There are heavy losses between the seventh and eighth grades; the completion rate for the first level of secondary school was approximately 80 per cent in 2009.

69. The retention rate for every grade improved between the 2001/01 and 2008/09 academic years. Of the students enrolled in the first grade in 2008/09, 94 per cent remained in school until the sixth grade and 43.3 per cent until the twelfth grade. By comparison, 84 per cent of students enrolled in the first grade in 2001/02 reached the sixth grade and only 30 per cent reached the twelfth grade.

70. There are significant differences among age groups in the 90 per cent of the school-age population (aged 6 to 17) who are enrolled in school. While nearly all children between the ages of 6 and 11 are enrolled, their numbers drop sharply after the age of 14 and only 59 per cent of children aged 17 attend school.

## **F. Respect for and protection of civil and political rights**

71. The protection of civil and political rights in Cape Verde is ensured by the Constitution; among the rights, freedoms and guarantees that it establishes — including those of political participation and the exercise of citizenship — are freedom of expression, freedom of the press, freedom of religion, the right to hold and participate in demonstrations and the right to belong to a trade union.

72. This set of rights reflects Cape Verde's commitments under the International Covenant on Civil and Political Rights.

73. With regard to participation in public life, every citizen has the right to take part in the conduct of public affairs, directly or through freely chosen representatives, and the right to vote may be restricted only as provided in article 55, paragraphs 1 and 3, of the Constitution.

74. Article 55, paragraph 4, of the Constitution establishes the State's obligation to encourage the balanced participation of both sexes in the conduct of public affairs. In this connection, a comparison of the lists of deputies elected in the seventh and eighth legislative elections for the periods 2006–2011 and 2011–2016, respectively, shows that there has been progress in the effort to include women in the slates of candidates; there are 72 seats in the legislature and in the seventh and eighth elections, 11 and 15 women, respectively, were elected.

(a) In the current Government, 8 of the 17 ministers are women.

(b) In the Supreme Court, 3 of the 7 judges are women.

75. Concerning the right to take part in the conduct of public affairs, the Constitution establishes that all citizens have an equal right to apply freely for public service posts and to run for office as provided by law and that, in holding public office and exercising their political rights, they may not cause harm to another person by appointment to a post; in a career, employment or public or private activity; or in the social benefits to which another person is entitled.

76. The law (art. 56, paras. 1, 2 and 3, of the Constitution) guarantees impartiality and independence in the conduct of public affairs and provides that the holding of elected office may be restricted only where absolutely necessary in order to ensure that voters have freedom of choice and are able to exercise that freedom with impartiality and independence.

77. Article 18, paragraph 2, of Act No. 42/VII/2009 of 27 July 2009 lays the foundation for the public service regime by establishing the general principles therefor; it stipulates that employees may not be benefited or harmed by their political choices or by the exercise of their constitutional or legal rights.

78. This Act also establishes that elected trade union officials and representatives and candidates for such positions may not be transferred away from their place of work without their express consent and without consultation with their respective unions for two years after the end of their term of office.

79. However, article 18, paragraphs 5 and 6, of the Act provide that trade union officials and representatives may be transferred as a result of the abolishment of their positions, as the inherent consequence of a promotion or pursuant to general, abstract legal regulations that are applicable to all employees.

80. Decree-Law No. 54/2009 of 7 December 2009, whose adoption followed that of the Constitution, modified the mobility regime for public servants by giving it a more flexible management tool so that it could rapidly and effectively adapt the available human resources in response to the ever-changing needs of the public service, which are, to a great extent, determined by the needs of citizens and businesses.

81. The Decree-Law represents an attempt to strike a balance between the public interest, which must always play the greatest role in decision-making, and the interests of the employee by establishing mechanisms to prevent any abuse of the mobility tools and to safeguard, to the extent possible, the legitimate interests of employees and their families.

82. Since the adoption of the Decree-Law, these safeguards have been invoked by a number of employees as the basis for contesting their transfer and the Supreme Court has already had occasion to rule on several appeals brought on those grounds.

## **G. Respect for human rights in the administration of justice and in the prison system**

### **1. In the administration of justice**

83. Within the framework of the reform of the justice sector, which is one of the pillars of reform in Cape Verde, significant legislation has been adopted over the past 10 years with a view to increasing the autonomy and independence of the courts and the judiciary. The relevant legislation includes Act No. 90/VII/2011 of 14 February 2011 (the Superior Council of Magistrates Act), Act No. 89/VII/2011 of 14 February 2011 (the Public Prosecutor's Office Organic Act), Act No. 88/VII/2011 of 14 February 2011 (the Courts Organic Act), Decree-Law No. 4/2011 of 17 January 2011 (adopting the new Judicial Fees Code), Act No. 1/VIII/2011 of 20 June 2011 (adopting the new Statute for Judges), Act No. 2/VIII/2011 of 20 June 2011 (adopting the new Statute for Public Prosecutors) and Act No. 80/VI/05 of 5 September 2005 (the Supreme Court Regulations and Functions Act).

84. The legal profession is independent and may not be the subject of any measure or agreement that prevents or limits the client's personal, free choice of counsel. Only lawyers (or lawyers-in-training) who are currently registered with the Bar Association of Cape Verde (OACV) may practice the law as a paid profession in any of the State's jurisdictions and before any of its courts, authorities and public or private entities, except as provided by law.

85. All accused persons have the inalienable right to a hearing and to a defence in any trial. Anyone required to give testimony during legal proceedings has the right to be accompanied by counsel when appearing before a police or judicial authority. Physical and legal persons who demonstrate that they cannot afford to cover all or part of the normal costs of a trial or to hire a lawyer have the right to legal assistance.

86. The Government has created alternative conflict resolution mechanisms, including the law centres that have been established in all of the country's municipalities, except on the island of Boavista, pursuant to Decree-Law No. 62/2005 of 10 October 2005. The law centres also function as conflict mediation centres.

### **2. In the prison system**

87. The prison system is covered by Decree-Law No. 25/88 of 26 March 1988, which establishes the general rules governing the execution of custodial measures ordered by court judgments or orders, and by Order No. 59 of 30 December,<sup>1</sup> which includes regulations for the central prison in Praia and transitional regulations for the other prisons that operate under the authority of the Ministry of Justice, pending the adoption of specific regulations for each of them.

88. The aforementioned regulations were adopted because the operational and disciplinary procedures in the country's prisons were governed by regulations issued by the Department of Prisons or adopted by the prison directors themselves without review by the

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<sup>1</sup> *Translator's note:* the year is missing.

Ministry regulators; this entailed the risk of subjectivity or undesirable flexibility in the practical application of the established rules or of an inappropriate perception of the mandates set out in the legislation establishing the regime for the serving of custodial sentences in prisons.

89. Furthermore, the increase in the prison population, which has also had an impact on the complexity of prison management, has led to the adoption of urgent general prison management regulations that ensure the effectiveness of ongoing application measures in the prisons.

90. The aforementioned Decree-Law covers, among other measures, the conditions for admission to prisons, requirements for the detention of women and of detainees aged 16 to 21, the rights of detainees, work and remuneration in prisons, contact with the outside world, leave for detainees, order and discipline, and parole and pardon.

91. With respect to the separation of prisoners, the 1988 Act provides that women's cells shall be separated from those of men, that contact between men and women detainees shall be governed by prison regulations and that detainees aged 16 to 21 shall, to the extent possible, always be held in cells separated from those of adult detainees and that they have a right to more favourable treatment.

92. Order No. 54/2009 strengthened the obligation to segregate detainees in order to ensure the separation of detainees aged 16 to 21 from adult detainees; of men from women; of accused persons from convicts; of first-time offenders from repeat offenders; between detainees on the basis of the nature of the crime committed, taking their physical and mental health into account; and of incarcerated government officials and enforcement officers from other detainees held in the same prison.

93. It should be stressed that the separation of detainees in the country's prisons is in effect.

94. The Social Service pays particular attention to detainees aged 16 to 21; in addition to being separated from adults, they receive more personalized treatment, participate in group work with specialists and may only be placed in isolation under exceptional circumstances. Individual, intensive efforts are advised during the period of incarceration of young detainees with a view to their reintegration into society.

95. The Social Service, in partnership with businesses, civil society organizations and religious groups, is in the process of setting up a national support network for prisoners.

96. On the advice of the ICCA, the court of enforcement of custodial and other sentences may authorize detainees under the age of 16 to serve their sentences in a juvenile protection centre established pursuant to Legislative Decree No. 2/2006 of 27 November 2006.

97. The records of the Social Reintegration Service show that the following 14 socioeducational protective measures were applied between 2009 and 2011 in institutional and non-institutional settings: 7 cases of internment (3 under a closed regime, 2 that were commuted to a semi-open regime by court order and 2 under a semi-open regime) and 7 cases of protective custody (2 under a closed regime and 5 under a semi-open regime).

98. Such measures must be implemented with respect for detainees' personalities and for those of their rights and interests that are unaffected by their sentences. They must be imposed with absolute impartiality and without discrimination on the basis of, inter alia, ancestry, sex, race, language, place of origin, religion, political or ideological convictions or level of education.

99. Visits that strengthen family, emotional and professional ties are encouraged with a view to the detainee's socialization. Incarcerated prisoners who have not served enough of

their sentences to receive extended leave; those who, having met this requirement, have not been granted extended leave for the past 30 days; and persons in pretrial detention who have been in custody for an uninterrupted period of more than 30 days may receive intimate visits.

100. Preliminary draft legislation on the enforcement of custodial and other sentences is being prepared with a view to amending the current Act, which dates from 1988, in light of developments in penal practices, changes in the prison population profile and in the social and prison environment, and new challenges to the prison system.

101. This preliminary draft would strengthen the rights of detainees established in the existing legislation and create new obligations for prisons by requiring additional measures to ensure that the enforcement of sentences and security measures focuses more closely on the social reintegration of detainees by preparing them to lead socially responsible lives and not to commit crimes.

102. The enforcement of custodial and other sentences must reproduce, as closely as possible, the conditions of a life of freedom except for the inevitable restrictions of imprisonment.

103. No sentence or security measure may entail a loss of civil, political or professional rights, except for the restrictions inherent to conviction and the specific requirements of the maintenance of security and order in prisons, and the authorities are required to respect the physical and emotional integrity of detainees.

104. The court of enforcement of custodial and other sentences has jurisdiction over the enforcement of such sentences pursuant to the legislation governing Cape Verde's judiciary.

105. Detainees have a right to the unsupervised use of toilets and showers for their personal hygiene unless there are reasonable grounds to fear that they would harm themselves or attempt to commit suicide.

106. Detainees have a right to profess a religion and to study and practice it but may not be compelled to take part in any religious act or ceremony, nor may they receive visits from a cleric of any faith.

107. The entire prison population receives medical care and medications.

108. Women who are pregnant or post-partum or who have miscarried or terminated a pregnancy must, wherever possible, receive care and treatment from a doctor with the appropriate specialization.

109. Drug-addicted prisoners must receive special care and treatment and, to that end, must be housed, wherever possible, in a designated section of the prison. Where the drug addiction is discovered during the prisoner's period of incarceration, the prison director must so inform the competent judicial authority.

110. Detainees may perform community service outside the prison, including in the areas of sanitation, protection and improvement of the environment or the national or municipal cultural heritage, and promotion of sport and culture. Community service is performed on a voluntary basis at the request of the detainee or pursuant to a request by the relevant entities to the court of enforcement of custodial and other sentences. It is unremunerated and neither the prison nor its administration may derive any economic or other benefit from the service provided.

111. The Department of Correctional Services and Social Reintegration must advertise and organize appropriate job training or retraining courses for prisoners, particularly those

under the age of 25, in cooperation with other public services, NGOs and private training institutions.

112. Those who take and pass a job training course receive a diploma, which makes no mention of the recipient's incarceration. Registration for such courses requires completion of at least the sixth grade; those who wish to reach this minimum level can do so while in prison.

113. Visits to prisons, including by the media, the clergy, NGOs and human rights observers, are authorized.

114. Cape Verde has seven prisons, of which the largest, the Central Prison in Praia (the capital city), was designed with a maximum capacity of 850 detainees. This prison has been enlarged through the construction of a second, more modern, complex with more comfortable cells than those of Complex I before the expansion. Complex I has since been upgraded with the exception of the quarters allocated to imprisoned members of the police and the military. Not only has the upgrading of the complex increased the prisoners' comfort; it has also helped to reduce the number of conflicts within the prison.

115. An eighth prison is under construction on the island of Sal and is expected to open in March 2013.

116. In late 2010, the total population of the seven prisons was 1,226 detainees: 1,153 men and 73 women.

117. In order to increase the effectiveness of the police, the Government has invested in ongoing training for officers and has improved their equipment and the technical and logistical conditions under which they work.

118. The police may not make an arrest without a warrant issued by a judicial authority unless the person is caught in flagrante delicto. The law provides that all detainees must be brought before a judge within 48 hours of arrest.

119. Accused persons benefit from the principle of the presumption of innocence and have a right to a fair public trial, to the presence and timely assistance of counsel, to confront and cross-examine the witnesses against them and to call witnesses in their defence, to see the evidence against them and to lodge an appeal.

## **H. Respect for gender equality, protection of rights and elimination of gender-based violence**

120. Throughout its existence as an independent State, Cape Verde has considered women's rights to be fundamental rights. One of its first human rights initiatives was the signing and ratification of the Convention on the Elimination of All Forms of Discrimination against Women without reservations in 1980.

121. The struggle for gender equality has seen both losses and gains in Cape Verde. The post-independence sociological reality of women's status and participation in public affairs was extremely poor and unequal. The first Government, formed in 1975, did not include a single woman; in 2008, the percentage of women ministers reached a high of 60 per cent. The country's first woman Member of Parliament was elected in 1980 and since 2006, women have comprised 18 per cent of its deputies. The formal-sector employment rate of women rose from 25 per cent to 39 per cent between 1990 and 2000; the net primary school enrolment rate for girls was 70.4 per cent in 1990 and has stood at 95 per cent since 2000; and the net secondary school enrolment rate for girls has increased from 18.3 per cent in 1975 to 64 per cent in 2007.

122. Successive Governments have endeavoured to ensure the full implementation of public policies for the promotion of gender equality. The results have been extremely encouraging, particularly in the health, education, business and political spheres.

123. The Organization of Cape Verdean Women (OMCV) was established in 1981; the first Government cabinet that included women was formed in 1991; the Cape Verdean Women's Institute (ICF) was established in 1994 and renamed the Cape Verdean Institute for Gender Equality and Equity (ICIEG) in 2006; the national plan for combating gender-based violence was developed, the inter-agency support network for victims of domestic violence was created and the first support offices for victims of such violence were opened in 2006; and the ICIEG prepared the Programme of Action for the Promotion of Gender Equality (2011–2012), which focuses on institutional capacity-building, implementation of the Gender-Based Violence Act, education and communication for change, gender mainstreaming and the promotion of economic opportunity, in December 2011.

124. Also noteworthy in this connection are the establishment, in 1995, of the Cape Verdean Family Protection Organization (VERDEFAM), which has as its general purpose to protect and promote the rights of the family in order to defend it as the basic unit of society and is also active in the areas of family planning and sexual and reproductive health; the Association of Cape Verdean Businesswomen; and the Cape Verdean Association of Women Jurists; the last of these has made a significant contribution to the implementation and application of the Gender-Based Violence Act.

125. The statistics show that there has been constant sociological improvement. From the strictly legal perspective, provisions directly related to this issue, albeit residually, have been introduced into Cape Verdean law.

126. In 1979, Cape Verde ratified International Labour Organization Conventions Nos. 100 and 111, which incorporated into domestic law the general principles of equal remuneration for men and women engaged in the same type of work and non-discrimination in employment on the basis of sex. Article 25 of the 1980 Constitution established the equality of all citizens before the law, without distinction as to sex; social, intellectual or cultural status; religious belief or philosophical conviction. Decree No. 7/87 of 14 February 1987 established the implementing regulations for Act No. 9/III/96 of 31 December 1996 on the voluntary termination of pregnancy.

127. Article 7 (e) of the current Constitution expressly provides that one of the tasks of the State is the progressive elimination of economic, social, cultural and political barriers to genuine equality of opportunity among citizens and, in particular, the causes of discrimination against women in the family and in society.

128. The Constitution (art. 81) states that domestic violence is punishable by law, that the rights of all members of the family are protected (art. 87, para. 2) and that the State has the duty to eliminate the conditions that lead to discrimination against women and to protect their rights and those of children (art. 88, para. 2).

129. The 1997 Civil Code (in the section on the family record book) gives both spouses equal rights and responsibilities within the family, establishes the legal separation of persons and property and the equality of children born in and out of wedlock, and stipulates that parental authority shall be exercised jointly by both parents.

130. Legislative Decree No. 4/97 of 28 April 1997 criminalizes spousal abuse (subsequently defined in article 134 of the current Penal Code) and classifies it as a semi-public offence subject to 1 to 4 years' imprisonment.

131. The 1999 Electoral Code requires a gender balance in slates of candidates.

132. The 2007 Labour Code regulates domestic service and, for the first time, criminalizes refusal to employ a pregnant woman (art. 409), sexual harassment (art. 410) and emotional harassment (art. 411).

133. Particularly noteworthy in this search for equality is the effort to combat one of the worst consequences of gender inequality: gender-based violence, defined as an act of violence committed by a person of either sex.

134. In a 2005 study by the National Statistics Institute, 22 per cent of Cape Verdean women stated that they had been subjected to psychological, physical or sexual violence by their partner or spouse.

135. According to the National Action Plan to combat gender-based violence, an analysis of the problem indicates that there is a quantitative dimension to the incidence of this type of violence, although the situation is not statistically alarming or serious.

136. The Gender-Based Violence Act is Act No. 84/VII/2011 of 10 January 2011. Its preparation was begun by a Government body, the ICIEG, with support from the Network of Women Parliamentarians and the diplomatic community.

137. The new Act calls for the establishment of a network of civil society organizations; this is an entirely new development in the national legal system, not only because of the solutions that it offers but, above all, because it is first legislation to deal specifically and exclusively with this issue. The relevant technical regulatory solutions have been drawn from comparative law in other countries with wide experience in this area. Thus, the “Sol” (Sun) network, which ensures coordination between NGOs, the national police, health centres, hospitals and community law centres, has been established in five municipalities on five of the country’s nine islands: Santiago, São Vicente, Sal, Fogo and Santo Antão.

138. The new Act focuses on three primary objectives: providing greater protection to victims, increasing the penalties for perpetrators and raising public awareness of gender-based violence. The Sol network received an estimated 3,203 complaints of gender-based violence in 2010, having received 1,703 such complaints in 2009. Information on the outcome of these complaints and on matters related to the exploitation of prostitution will be included in Cape Verde’s report to the Committee on the Elimination of Discrimination against Women, which will be submitted to and discussed at the fifty-fifth session of the Committee, to be held in Geneva from 8 to 26 July 2013. In 2010, the Government and the civil society organizations in the Sol network benefited from several training programmes for professionals who work directly with these issues.

139. Since the Act considers gender-based violence to be a public crime, prosecution may be initiated in the absence of a complaint. The Act authorizes the State and other public institutions to assume responsibility and to take a number of actions; it shortens and simplifies the proceedings and strengthens institutional protection in this area by establishing or reinforcing the relevant mechanisms and resources.

140. However, major challenges, particularly the elimination of sexist stereotypes that lead to discrimination against women in public and private life, remain. In order to strengthen the results achieved to date and to address these challenges, the Government is using the National Gender Equity and Equality Plan to create the conditions for mainstreaming gender into public policy in Cape Verde, promote the elimination of sexist stereotypes and lay the foundation for full implementation of the special Gender-Based Violence Act. Particularly noteworthy in this regard is the approach taken and the treatment of aggressors provided by the officers of the Ministry of Justice Social Reintegration Service.

141. These strategies are an attempt to consolidate and expand the progress in promoting gender equality and women’s rights in Cape Verde.

## I. Respect for and protection of the rights of vulnerable groups

142. The social sector and social policies have always been key to the choices made by successive Governments in Cape Verde, despite the country's limited financial resources. This reflects a vision of development that is people-centred and seeks to ensure respect for the human rights of the entire population, and particularly the most vulnerable groups.

143. As proof of its commitment to particularly vulnerable persons, the State currently provides 23,000 people (about 4.7 per cent of the population), including older persons and vulnerable or disabled children and adults, with a minimum non-contributory pension of US\$ 50 as a supplement to other social policies, namely those aimed at eradicating rural poverty and combating AIDS (Act No. 19/VII/2007 of 26 November 2007), with a particular focus on, inter alia, women and children.

144. Article 76, paragraph 2, of the Constitution requires the public authorities to ensure the special protection of persons with disabilities, including by preventing disabilities; providing treatment, rehabilitation and reintegration (within the framework of Basic Act No. 122/V/2000 of 12 June 2000); creating economic, social and cultural conditions that facilitate the participation of such persons in active life; raising public awareness of the duties of respect and solidarity by encouraging and supporting organizations of persons with disabilities and ensuring that such persons are given priority by the public services; eliminating architectural and other barriers to their access to public facilities and social equipment (Decree-Law No. 20/2011 of 28 February 2011, which establishes accessibility regulations); and ensuring, promoting and supporting their inclusion in the schools and in job training programmes.

145. The National Council on Disability, an advisory body, works in partnership with the Ministry responsible for proposing, coordinating and monitoring the implementation of national policies.

146. The Government encourages businesses that hire persons with disabilities by providing tax incentives.

147. Despite the measures taken, persons with disabilities continue to face obstacles to their social inclusion on a daily basis since there is often no appropriate means of access to, inter alia, buildings and public transport.

148. The public authorities promote and encourage associations of persons with disabilities, particularly the Cape Verdean Association of Persons with Visual Impairments (ADVIC), the Cape Verdean Association of Persons with Disabilities and the Association of Children with Cerebral Palsy (ACARINHAR), in order to better protect and ensure respect for their rights.

149. Women heads of household, especially in rural areas, receive support from Cape Verdean NGOs, particularly in the area of microcredit (Act No. 15/VII/2007 of 10 September 2007). Thus, many women have successfully supported themselves and continued to manage their microenterprises. Particularly noteworthy in this regard is the work of the Association in Support of Women's Self-Promotion in Development (MORABI), established in 1992, which has five offices in the country and targets local communities, families, young people, women, seropositive people, poor people and orphans; it also works in the areas of job training and public housing.

150. Article 77 of the Constitution establishes that the public authorities must provide older persons with special protection. Specifically, they must promote the economic, social and cultural conditions that facilitate their participation with dignity in family and social life; make society and families aware of the duty of respect for and solidarity with this group by encouraging and supporting associations of older persons; ensure that the social

services give priority to such persons; and correct the physical limitations on their access to public facilities and social equipment.

151. The National Strategy for Older Persons, which is guided by the principles of respect for the individual, integration, solidarity, sustainability, accessibility, participation, cooperation and partnership, was adopted through Government Decision No. 49/2011 of 28 November 2011.

152. By strengthening current and planned measures, efforts will be made to ensure, to the extent possible, respect for the rights of persons with disabilities and for the rights enshrined in the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child; to protect the rights of HIV-positive women and children; and to provide social security for older persons, including those with low income.

### **III. Prospects and conclusions**

153. Cape Verde would like, on the one hand, to call for international cooperation and partnership so that it can continue to plan and implement activities within the framework of the promotion and protection of human rights and, on the other, to request OHCHR to provide funding for the activities implemented as follow-up to this review, to be identified in due course.

154. Since the previous review, despite the impact of the international financial and economic crisis, Cape Verde has made a great effort and has achieved significant progress in the implementation of recommendations and the fulfilment of its international commitments. The country's resource constraints are, however, a major obstacle to the implementation of human rights policies with major financial implications.

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