



**International Convention on the
Protection of the Rights of
All Migrant Workers and
Members of Their Families**

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**Committee on the Protection of the Rights of All
Migrant Workers and Members of Their Families**
Thirty-fourth session

Summary record of the 480th meeting

Held at the Palais Wilson, Geneva, on Thursday, 31 March 2022, at 3 p.m.

Chair: Mr. Corzo Sosa

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 73 of the Convention *(continued)*

Combined initial to third periodic reports of Cabo Verde (CMW/C/CPV/1-3; CMW/C/CPV/Q/1-3)

1. *At the invitation of the Chair, the delegation of Cabo Verde joined the meeting.*
2. **Mr. Elísio Freire** (Cabo Verde), speaking via video link, said that migration and mobility were cornerstones of the islands' shared history and had created opportunities for development and economic growth. Cabo Verde was historically marked by emigration, with a diaspora about double the resident population that was often referred to as the "11th island". The country had, however, seen an increase in immigration in recent decades and the foreign population had tripled since 1991. Those changes had been accompanied by the adoption of instruments and policies to protect the human rights of migrants. In addition to the constitutional prohibition of discrimination, the most important legislative developments included the adoption of Law No. 66/VII/2014 on entry, stay, exit and removal of foreign nationals in 2014 and the revision of the Criminal Code to establish trafficking in persons as a criminal offence and decriminalize the irregular entry and stay of trafficking victims in 2015.
3. Migration had been integrated in national development strategies and policies, including the most recent edition of the Strategic Plan for Sustainable Development. In recognition of the country's migration profile, the approach was two-pronged: the National Emigration and Development Strategy sought to enhance the scope and impact of diaspora engagement and contributions, while the National Immigration Strategy aimed at protecting and promoting the human rights of migrants and strengthening migration management. The two strategies were complemented by the National Plan to Combat Trafficking in Persons, 2018–2021 and the Second National Action Plan for Human Rights and Citizenship, 2017–2021.
4. Various institutions were in charge of addressing the challenges arising from Cabo Verde's status as a country of emigration and immigration. The National Committee for Emigration and Development and the National Immigration Council acted as advisory bodies, while the implementation and monitoring of migration policies and the coordination of immigration and diaspora-related matters were the responsibility of the Ministry of Foreign Affairs and Communities. The High Authority for Immigration, established in 2020, was responsible for coordinating activities aimed at social inclusion, while the National Police, the General Inspectorate of Labour, the Public Prosecutor and the Ombudsman, among others, were concerned with aspects of migration pertaining to their specific mandates.
5. Cabo Verde had acceded to the Protocol relating to Free Movement of Persons, Residence and Establishment of the Economic Community of West African States (ECOWAS) and had concluded bilateral labour agreements with the main destination countries of Cabo Verdean migrants – Portugal, France and Spain – and other countries. The country also engaged bilaterally and in regional and international forums on issues such as border control and the fight against trafficking in persons.
6. A series of activities, initiatives and instruments had been developed to disseminate and raise awareness of the Convention, in partnership with civil society organizations and the National Immigration Council. Civil society organizations were essential partners in the implementation of the Convention. In addition to awareness-raising, studies and collection of data on migration were also a priority.
7. Several of the principles set forth in the Convention were reflected in the Constitution and domestic law. The principle of non-discrimination was enshrined in the Constitution, the Criminal Code and various laws and was integrated in strategies and action plans.
8. In recent years, considerable progress had been made in the field of migration, including through the establishment of the High Authority on Immigration and the increased emphasis placed on creating a national system for the reception and integration of migrants.

In 2022, local reception centres and immigration units would be established in five municipalities. In 2021, an exceptional regularization scheme had been implemented for citizens from the ECOWAS region and the Community of Portuguese-speaking Countries (CPLP), as well as for migrants from other countries without a valid residence permit. Access had been facilitated by reducing documentation requirements, enabling online applications and establishing support centres to assist migrants with filing their applications. The process was expected to be concluded by June 2022. A code adopted in 2020 created favourable conditions for investment by and return of migrants from abroad.

9. A single social registry was used to collect data on the socioeconomic situation of the population and social benefits disbursed. Emphasis had recently been placed on the registration of migrants and some 5,385 foreign residents had been registered to date. Among the special measures taken by the Government to mitigate the impact of the coronavirus disease (COVID-19) pandemic, several had benefited migrant workers, including the expansion of social protection, the strengthening of comprehensive family support services and the payment of emergency benefits.

10. While much progress had been made, challenges to the implementation of the Convention persisted. The Government's efforts to improve the socioeconomic well-being of migrants were closely aligned with the 2030 Agenda for Development and the Sustainable Development Goals. Measures taken to enhance the support provided to migrant workers from Cabo Verde in host countries included an overhaul of diplomatic and consular networks and the negotiation or updating of social security agreements. The Government remained committed to implementing international instruments related to the rights of migrant workers while enhancing its efforts to promote the social inclusion of immigrants, consolidate the High Authority on Immigration and take an integrated approach to migration, including by promoting regularization.

11. **Mr. Babacar** (Country Rapporteur) said that, while the Committee welcomed the legislative and institutional measures taken by the State party to promote and implement migrant rights, it was regrettable that Law No. 99/V/99 establishing the legal regime of asylum and the status of refugees had not been followed up with implementing regulations. It was also disappointing that the non-discrimination bill had not been passed into law and that no replies had been received to the list of issues.

12. The Committee would be grateful to learn of steps taken to bring domestic legislation into line with the Convention and of cases where the Convention had been invoked or directly applied in court or by the administrative authorities. The State party might wish to inform the Committee of any plans to adopt implementing regulations for Law No. 99/V/99. It should also describe the mechanisms in place to monitor the implementation of the Convention and specify how the Convention was implemented in regard to mixed migration flows comprising migrant workers, refugees and irregular migrants.

13. It would be useful to know whether the State party intended to ratify the International Labour Organization (ILO) Minimum Wage Fixing Convention, 1970 (No. 131), the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and the ILO Domestic Workers Convention, 2011 (No. 189). The Committee would be grateful for further details of the implementation of the State party's migration-related strategies and action plans, including statistical data. It would also be helpful to find out about plans to decouple the National Commission for Human Rights and Citizenship from the Ministry of Justice, in order to guarantee its independence and compliance with the principles relating to the status and functioning of national institutions for the protection and promotion of human rights (Paris Principles). He would appreciate clarification of the modalities and mechanisms to facilitate effective engagement of civil society in the preparation of the report and implementation of the Convention. It would also be useful to hear about the safeguards in place to protect civil society organizations working in the field of human rights from harassment or reprisals.

14. Additional information was needed on measures taken to ensure that migrant workers, including irregular migrants, had equal access to justice and could seek compensation for violations of their rights under the Convention. Clarification was also needed of the extent to which regular and irregular migrants and members of their families subject to detention or

expulsion orders were guaranteed due process of law. Were they provided with information in a language they understood?

15. Specific details of the way in which the labour rights of migrant workers were guaranteed in practice would be appreciated. The State party should explain how it prevented labour exploitation of migrant workers, including irregular migrants working in the informal sector, and indicate whether migrant workers were entitled to join or hold office in a trade union of their choice. He would appreciate receiving information on the steps taken to grant migrant workers equal access to social security and to ensure that children of irregular migrants were registered at birth and provided with identity documents. The Committee would also appreciate information on measures taken to ensure, in law and practice, that employment-related work and residence permits were not revoked if the worker lost his or her job prematurely.

16. Clarification was needed of the role, regulation and licensing of recruitment agencies facilitating employment abroad. It would be particularly interesting to learn about measures taken to make them accessible to women and thus reduce women's dependence on informal networks and brokers. He wished to know whether any complaints had been lodged against recruitment agencies on grounds of their involvement in trafficking in persons and sexual exploitation and, if so, what measures had been taken in response.

17. **Ms. Poussi** (Country Rapporteur) said that she wished to find out how involved the National Commission for Human Rights and Citizenship was, in practice, in the development of government policies on migration. It would also be helpful to have a detailed description of its role in repatriation proceedings, where it was tasked by law with ensuring that human rights rules were observed, and of any procedures or mechanisms that had been put in place to facilitate that work. She wondered how many repatriation cases the Commission had been involved in and whether any specific steps had been taken to safeguard the human rights of migrants in such cases.

18. She would be grateful for information on the application, in practice, of the requirement under Cabo Verdean law that sufficient guarantees must be received from the country of origin or a third State regarding the care that an unaccompanied minor would receive before the minor could be returned. She would be interested to learn whether any removal proceedings had failed or been abandoned because such guarantees had not been received.

19. She asked whether the proposed amendments to Decree-Law No. 84/78, regarding workers' compensation, would apply equally to migrant workers and when the amendments were expected to be adopted. Information would be appreciated on the State party's efforts, if any, to reduce the vulnerability of female migrant workers to sexual exploitation and to protect and assist migrant workers who had been victims of sexual abuse or violence against women. She wished to learn about any studies conducted on forced or compulsory labour or other types of exploitation of migrant workers, and about the findings of any labour inspections addressing such practices. It would also be helpful to know whether labour inspectors received reports of such practices and, if so, what action the State party took in response, including through investigations and prosecutions.

20. She would appreciate detailed information on the detention of migrant workers and members of their families. She wished to find out how the legal provisions calling for the automatic detention of migrants entering or staying or working in the country without authorization were applied in practice and what the legal basis was for that detention, since it seemed to be based on their migration status. It would be helpful to know how long migrants could be held in administrative detention, how many workers had been placed in administrative or judicial detention for violating immigration laws, and how many decisions had been handed down in such cases. She also wished to learn about the availability of free interpretation services in such cases. She would be grateful for information on alternatives to the detention of migrants. Were persons in detention for immigration law infractions separated from those being held under the country's criminal laws, and were male and female detainees separated?

21. **Mr. Oumaria** said that he would be grateful for information on any services in place to provide advice to Cabo Verdean nationals working abroad on how to invest funds that they

transferred back to the country. It would be helpful to receive data on Cabo Verdean nationals who returned to the country and to find out whether they were able to put to use the skills that they had acquired abroad.

22. He wished to learn about any steps taken by the State party to facilitate the transfer of funds by migrants working in Cabo Verde to their countries of origin. He asked whether nationals of member States of ECOWAS were exempted from certain entry requirements and other administrative formalities by virtue of the Protocol relating to Free Movement of Persons, Residence and Establishment.

23. He wished to find out whether migrant workers enjoyed freedom of religion, the rights to education, health and housing, and freedom of association. It would be interesting to know whether the National Commission on Human Rights and Citizenship met the international standards for national human rights commissions and, if not, what steps the State party was taking to obtain “A” status for the Commission from the Global Alliance of National Human Rights Institutions.

24. **Mr. García Sáenz** said that he wished to know whether the State party had identified the primary countries of destination for Cabo Verdean nationals working abroad and the main sectors in which they worked. If those countries had been identified, it would be helpful to know whether bilateral agreements had been entered into with them to protect the Cabo Verdeans working there. He also asked whether the Government ran any programmes through its diplomatic missions to make Cabo Verdeans abroad aware of the services that it could provide for them.

25. **Ms. Dzumhur** said that she wished to know how many Cabo Verdean diplomatic missions were present in the States to which Cabo Verdean nationals emigrated and how the State party ensured that its citizens abroad could enjoy their political rights. She also wondered what measures were in place to assist Cabo Verdean nationals who wished to invest the money that they earned abroad in Cabo Verde and to open businesses.

26. She asked how the State party safeguarded the rights of immigrants in Cabo Verde, particularly women and children. She would appreciate information on any efforts to prevent trafficking in women and to assist victims of domestic violence. It would be helpful to know whether legislation was in place to address gender-based discrimination and whether cases of gender-based discrimination were handled by the National Commission on Human Rights and Citizenship or by a dedicated mechanism. She, too, wondered what status had been conferred on the Commission by the Global Alliance of National Human Rights Institutions.

27. She would be grateful for information on pathways to regularization and the possibility for migrants to change the visa regime under which they were in the country. She wished to know whether migrant workers could join trade unions and what the procedure was for them to do so. It would also be helpful to know whether officials dealing with migration matters, such as border guards, were required to undergo any special training.

28. **Mr. Ceriani Cernadas** said that he wished to know whether the 2017 amendments to the Law on the entry, stay, exit and removal of foreign nationals took account of the recommendations contained in the concluding observations issued by the Committee in 2015 (CMW/C/CPV/CO/1) and, if so, to what extent. He wondered what the results had been thus far of the regularization plan that was being implemented from January to June 2022, whether the plan would benefit all migrants in an irregular situation, and whether the State party planned to institute any permanent mechanisms for regularization. He wished to learn about the different roles of the various institutions involved in migration matters, such as the High Authority for Immigration and the National Immigration Council, and to find out whether they applied a coherent policy. He asked what happened to unaccompanied minors who were refused entry at the border because they did not meet the requirements for entry. It would be helpful to know whether the domestic law requirement that individuals must have a regular residence to be able to enjoy certain rights, such as the right to education, was applied flexibly in practice. He would be grateful for information on measures taken by the State party to ensure that migrant workers had effective access to housing.

29. **The Chair** said that he welcomed the information provided concerning registration of the births of children born to migrant parents in the State party. However, he would also

be interested to know what procedures had been put in place to ensure that children born to Cabo Verdean parents in other countries around the world received Cabo Verdean nationality. It was a very important matter since, if there were any obstacles to that procedure, those children could be at risk of statelessness.

The meeting was suspended at 4.20 p.m. and resumed at 4.40 p.m.

30. **Mr. Elísio Freire** (Cabo Verde) said that the Government had made plans to strengthen the National Commission for Human Rights and Citizenship by bringing it under the auspices of the office of the Ombudsman. That structural change would also underpin the independence of the Commission, since the Ombudsman was elected by a two-thirds majority of votes of members of the National Assembly.

31. Concerning the ratification of international conventions, the Government, the National Assembly and the President of the Republic were all committed to adopting international best practices, and it was expected that the country would be in a position to ratify more international instruments in the near future. It was also hoped that progress would be made soon regarding the law on asylum. Law No. 99/V/99 had been adopted in 1999 but implementing regulations had never been enacted. In 2020, the National Immigration Council had created a task force to review the text with a view to updating the Law and drawing up a road map for its adoption.

32. With respect to the Committee's question about remittances, migrants in Cabo Verde enjoyed access to banking and were therefore able to send money transfers back to their countries of origin. However, a limit of the equivalent of US\$ 10,000 had been placed on the amount of cash that migrants could take out of the country.

33. **Ms. Barros** (Cabo Verde), speaking via video link, said that the High Authority for Immigration had published a brochure aimed at raising awareness of the Convention among migrant workers in Cabo Verde. The Convention had been consulted by the relevant public institutions when devising the country's original National Immigration Strategy in 2012 and, more recently, during the drafting of the Second Plan of Action on Immigration and Social Inclusion of Immigrants. Generally speaking, the ways in which the State received and interacted with its migrant population were guided by the principles of the Convention. Migrants enjoyed basic human rights such as the rights to health and education, freedom of association and the right to practise their religion. Public services such as health care, education and social security were made available to all residents of Cabo Verde, regardless of their nationality or migratory status.

34. With respect to the participation of civil society in defining policy on migrants, non-governmental organizations were represented in the High Authority for Immigration and had a seat on the National Immigration Council, which met twice a year. All members of the Council had a say on its decisions and actions. The National Commission for Human Rights and Citizenship was also a full member of the Council. There was constant coordination between the Council and the Commission, and the two entities had collaborated on various projects, including the publication of the aforementioned brochure on the Convention.

35. All children born to migrant parents in Cabo Verde and to Cabo Verdean parents in other countries were entitled to Cabo Verdean nationality. However, such children did not automatically become Cabo Verdean nationals; it was the responsibility of their parents to apply for Cabo Verdean nationality on their behalf. The previous year, the National Immigration Council had defined clear measures to facilitate access to Cabo Verdean nationality for children of foreign parents in Cabo Verde, regardless of their migratory status. The Government had included the measures in a bill, which had been submitted to the National Assembly for approval.

36. According to information from the public prosecution service, only 4 cases of forced labour and 11 cases of trafficking in persons had been registered in Cabo Verde. Investigations were ongoing and no decisions had yet been handed down.

37. With regard to the country's institutional framework, the Ministry of Foreign Affairs and Communities was responsible for developing policy for Cabo Verdean migrants living abroad, while the High Authority for Immigration was tasked with general policy implementation and coordination of government action on immigration to Cabo Verde. The

High Authority worked with the police force on matters relating to border management and facilitated contact between migrants and the relevant government agencies and services to ensure that foreign nationals in Cabo Verde had access to services such as health, education, housing and employment.

38. **Mr. Fortes** (Cabo Verde), speaking via video link, said that all workers in his country were treated equally. Complaints by all workers, regardless of their nationality, could be lodged either in person or by calling a dedicated telephone hotline. Under the Constitution, employees were entitled to compensation for unfair dismissal, and administrative proceedings were instituted whenever a person formally complained of his or her rights being violated by an employer.

39. The General Inspectorate of Labour conducted regular inspections to review working conditions and to check employers' compliance with the legislation establishing the national minimum wage, which had been introduced in 2012. It was nonetheless difficult to carry out inspections in the informal employment sector. For that reason, every effort was being made to formalize every area of the national economy. In the meantime, the General Inspectorate was working with the National Institute of Social Welfare to ensure, to the extent possible, that the rights of workers in the informal economy were respected. Although only a small number of cases of forced labour or exploitation of migrants had been brought to the attention of the authorities, the Government was mindful of those issues and had also adopted a second National Plan to Combat Trafficking in Persons. Staff at the General Inspectorate received training on all such matters and relevant checks were carried out during workplace inspections.

40. All workers in Cabo Verde were entitled to sick leave and pensions, regardless of their nationality. Under a law adopted in 2020, all workers and their family members, including migrants, were also covered by mandatory insurance for workplace accidents.

41. One of the aims of the General Inspectorate was to ensure that there were no cases of child labour in the formal employment sector. It had also taken measures to investigate sectors affected by informal employment, in particular agriculture and fishing, to make sure that any children engaged in work were still attending school and were not being exploited.

42. **Mr. Moreno** (Cabo Verde), speaking via video link, said that there were two processes by which migrants could be legally removed from Cabo Verde. Firstly, judges could rule that removal orders should be issued for migrants who had been found guilty of crimes. Secondly, administrative expulsions could be ordered by the Immigration and Borders Directorate of the National Police. In administrative cases, both the migrant in question and the National Commission for Human Rights and Citizenship were formally notified as soon as the removal order was issued.

The meeting rose at 5.05 p.m.