



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

Concluding observations on the combined initial to third periodic reports of Cabo Verde*

1. The Committee considered the combined initial to third periodic reports of Cabo Verde¹ at its 480th, 481st and 482nd meetings,² held on 31 March and 1 April 2022. At its 492nd meeting, held on 8 April 2022, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined initial to third periodic reports of the State party, which was the first State party reports to the treaty bodies prepared by the interministerial commission for the preparation of national reports, established in 2017. The Committee further welcomes the additional information provided by the high-level and multisectoral delegation that was headed by the Minister of Family, Inclusion and Social Development, Fernando Elísio Freire, and comprising representatives from the Office of the Prime Minister, the Ministry for Foreign Affairs, Cooperation and Regional Integration, the Ministry of Family, Inclusion and Social Development, the Ministry of Communities, the High Authority on Immigration, and the Immigration and Border Service, as well as the Permanent Representative, Clara Delgado Jesus, and officials from the Permanent Mission of Cabo Verde to the United Nations Office at Geneva.

3. The Committee appreciates the open and constructive dialogue held with the delegation. The Committee, however, regrets that the replies to the list of issues, due on 1 October 2019, were only submitted on 31 March 2022, after the first meeting of the dialogue with the State party. This did not allow sufficient time for translation into the working languages of the Committee, and the replies were therefore not available for due consideration.

4. The Committee is aware that Cabo Verde has made progress in protecting the rights of its nationals abroad. It is a country of origin of many migrant workers, with around one million Cabo Verdeans living abroad, which amounts to more than half of the total resident population in the State party. However, the Committee also notes that the State party faces several challenges in terms of the protection of migrant workers' rights as a transit and destination country.

* Adopted by the Committee at its thirty-fourth session (28 March–8 April 2022).

¹ [CMW/C/CPV/1-3](#).

² [CMW/C/SR.480](#), [481](#) and [482](#).



B. Positive aspects

5. The Committee notes with appreciation the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2016.
6. The Committee welcomes the adoption of the following legislative measures:
 - (a) The amendments to Law No. 19/IX/2017 on the entry into, stay in, and exit and removal from Cabo Verde of foreign nationals, in 2017, including the introduction of an electronic platform for visa requests;
 - (b) The adoption of Law No. 113/VIII/2016, in 2016, including the entry into force of the list of dangerous work for children and adolescents, which prohibits children from carrying out certain forms of labour and provides for monitoring mechanisms;
 - (c) The revision of the Penal Code in 2015, which criminalizes trafficking in persons and exempts victims of trafficking from sanctions for irregular entry.
7. The Committee welcomes the adoption of the following institutional and policy measures:
 - (a) The second action plan for the social inclusion of immigrants (2018–2020), extended to 2021 due to the coronavirus disease (COVID-19) pandemic;
 - (b) The first national plan to combat trafficking in persons (2018–2021);
 - (c) The programme of support for voluntary return to the country of origin (Decree-Law No. 46/2019);
 - (d) The second national action plan for human rights and citizenship (2017–2022).
8. The Committee notes as positive that the State party voted in favour of the Global Compact for Safe, Orderly and Regular Migration, endorsed by the General Assembly on 19 December 2018 in its resolution 73/195, and the Committee recommends that the State party work towards the implementation of the Global Compact for Migration, ensuring full compliance with the Convention.
9. The Committee notes as positive the invitation extended by the State party to the special procedures of the Human Rights Council in 2013.

C. Principal subjects of concern and recommendations

1. General measures of implementation (arts. 73 and 84)

Current context

10. **The Committee recommends that the State party protect the rights of migrants and members of their families, in particular their right to health, and mitigate the adverse effects of the COVID-19 pandemic in the light of the joint guidance note on the impacts of the COVID-19 pandemic on the human rights of migrants, issued by the Committee and the Special Rapporteur on the human rights of migrants. In particular, the Committee recommends that the State party guarantee equitable access to vaccination against COVID-19 to all migrants and members of their families, irrespective of their nationality, migration status or other prohibited grounds for discrimination, in accordance with the recommendations issued by the Committee and other regional human rights mechanisms in the above-mentioned joint guidance note.**

Legislation and application

11. The Committee takes note of the information provided by the State party that the Law on the entry into, stay in, and exit and removal from Cabo Verde of foreign nationals (Law No. 66/VIII/2014, as amended by Law No. 80/VIII/2015 and Law No. 19/IX/2017) has strengthened the national legal framework in the State party, including through the extension of its scope of application to stateless persons. The Committee welcomes in particular that

this Law repealed Decree-Law No. 6/97, which included provisions in violation of the Convention.³ The Committee is, however, concerned that the principle of equality of rights and duties between nationals of Cabo Verde and foreign citizens in article 64 only applies to migrant workers and members of their families in a regular situation, and that regulations implementing Law No. 106/V/99 on asylum and the status of refugees have yet to be adopted more than 20 years after the adoption of the Law, noting the explanation provided by the State party that it is currently reviewing the legislation itself.

12. Reiterating its previous recommendations,⁴ the Committee recommends that the State party:

(a) Take the steps necessary to bring its legislation into line with the provisions of the Convention, taking into consideration the Committee's general comments No. 1 (2011), No. 2 (2013) and No. 5 (2021), and joint general comments No. 3 and No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families / No. 22 and No. 23 of the Committee on the Rights of the Child (2017);

(b) Conclude the review and revision of Law No. 106/V/99, without delay and, in the meantime, swiftly adopt regulations to give effect to the current legislation, so as to ensure the protection of asylum seekers, persons in need of additional protection and other persons in need of international protection;

(c) Provide, in its next periodic report, information regarding the application of the Convention and the Committee's general comments by domestic courts.

Articles 76 and 77

13. The Committee notes the explanation provided by the State party, in which it indicated that it was currently undertaking a comparative analysis vis-à-vis other countries before it will consider making the declarations under articles 76 and 77 of the Convention.

14. Reiterating its previous recommendations,⁵ the Committee recommends that the State party make the declarations provided for in articles 76 and 77 of the Convention recognizing the competence of the Committee to receive and consider communications from States parties and individuals concerning violations of the rights established by the Convention.

Ratification of relevant instruments

15. The Committee notes the explanation provided by the State party, in which it indicated that it was taking concrete steps, including to further formalize its economy, with a view to complying with the International Labour Organization (ILO) conventions to which it is still not a party.

16. Reiterating its previous recommendations,⁶ the Committee recommends that the State party ratify or accede, as soon as possible, to the ILO Migration for Employment Convention (Revised), 1949 (No. 97); the ILO Minimum Wage Fixing Convention, 1970 (No. 131); the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); the ILO Safety and Health in Construction Convention, 1988 (No. 167); the ILO Private Employment Agencies Convention, 1997 (No. 181); and the ILO Domestic Workers Convention, 2011 (No. 189). The Committee also recommends that the State party consider ratifying the ILO Violence and Harassment Convention, 2019 (No. 190).

Comprehensive policy and strategy

17. The Committee takes note of the national emigration and development strategy, in place since 2013, the national immigration strategy, in place since 2012, and the second action plan for the social inclusion of immigrants (2018–2020), extended to 2021, which are

³ CMW/C/CPV/CO/1, paras. 36–37.

⁴ Ibid., para. 11.

⁵ Ibid., para. 13.

⁶ Ibid., para. 15.

all aimed at strengthening instruments and mechanisms for managing mobility and migratory flows, and promoting the social inclusion of migrants. The Committee is, however, concerned that the State party has not yet fully implemented them and that the level of implementation varies across the islands of the State party.

18. **The Committee recommends that the State party:**

(a) **Ensure the full implementation of the national emigration and development strategy, the national immigration strategy and the second action plan for the social inclusion of immigrants;**

(b) **Adopt a single and comprehensive, gender-responsive and human rights-based migration policy and plan of action, with clear time frames, indicators and benchmarks for monitoring and evaluation, and provide sufficient human, technical and financial resources for their implementation;**

(c) **Include in its next periodic report updated information, supported by statistics, on the concrete measures taken to implement the policy and plan of action.**

Coordination

19. The Committee takes note of the various platforms to ensure the coordination of migration policies, such as the High Authority for Immigration established in 2020, the National Immigration Council and the National Committee for Emigration and Development, and the State party's plans to set up service posts and local immigration units in five municipalities in 2022. The Committee is, however, concerned that the human, technical and financial resources necessary for their effective functioning have been gradually reduced, owing to the COVID-19 pandemic; that the members of the said inter-institutional platforms change often; and that meetings of the platforms are not held regularly.

20. **Reiterating its previous recommendations,⁷ the Committee recommends that the State party:**

(a) **Identify or establish one appropriate standing body, at a high interministerial level, with a clear mandate and sufficient authority to coordinate all activities related to the implementation of the Convention at cross-sectoral, national, regional and local levels;**

(b) **Ensure that the said coordinating body is provided with the necessary human, technical and financial resources for its effective and sustainable operation and involves civil society organizations, in particular migrants' organizations, in the discharge of its mandate.**

Data collection and right to privacy

21. The Committee notes the State party's continuous efforts to improve data collection and disaggregation on migrants and migration-related issues by the National Institute of Statistics and the Directorate of Foreigners and Borders, including for the analysis of structural causes of emigration; its intention to create a migration observatory; and that a second migration profile was prepared for the country in 2021. The Committee remains concerned, however, about the lack of disaggregated data and statistics, which could better inform migration policies, including on conditions of employment of migrant workers, and on migrant women, migrant children, migrants in an irregular situation, and the Cabo Verdean diaspora.

22. **Reiterating its previous recommendations,⁸ the Committee recommends, in line with target 17.18 of the Sustainable Development Goals, that the State party apply a gender-responsive and human rights-based approach and ensure that the personal information of migrant workers and members of their families is protected and erased once the purpose of the data collection has been achieved, so that personal data are not**

⁷ Ibid., para. 21.

⁸ Ibid., para. 19.

used for migration control or for discrimination in public and private services. The Committee also recommends that the State party:

(a) **Continue to strengthen its current data-collection system on the status of migrant workers in the State party, irrespective of their migration status; members of their families; migrant workers in transit and nationals working abroad, and their conditions of employment; returnees; children who migrate abroad, including unaccompanied children; and spouses and children of migrant workers who are left behind, and cover all aspects of the Convention for the use by all government bodies that provide services and assistance to migrant workers and members of their families;**

(b) **Include in such a system the situation of all migrant workers and members of their families for whom Cabo Verde is a country of origin, transit, destination or return, and compile data disaggregated, inter alia, by sex, age, nationality, reason for entry into and departure from the country, the type of work performed, particular categories of migrant workers, ethnic origin, migration status and disability;**

(c) **Ensure the coordination, integration and dissemination of such data and design indicators to measure progress and the results of policies and programmes based on such data;**

(d) **Submit data based on studies or estimates where it is not possible to obtain precise information, such as information on migrant workers in an irregular situation, in its next periodic report.**

Independent monitoring

23. The Committee is concerned that the application of the National Commission for Human Rights and Citizenship, which is the State party's national human rights institution, for accreditation by the Global Alliance of National Human Rights Institutions was rejected in June 2021, as it was not considered compliant with principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). It is also concerned that a draft statute, which is intended to bring the Commission into line with the Paris Principles, has been pending approval since 2011, and further concerned about plans to dismantle the Commission and have its mandate subsumed under the Office of the Ombudsperson.

24. **The Committee recommends that the State party:**

(a) **Take urgent and concrete measures to ensure that the draft statute of the National Commission for Human Rights and Citizenship is approved as soon as possible in order to maintain its existence;**

(b) **Provide the Commission with a broad mandate to effectively promote and protect the rights of migrant workers and members of their families under the Convention, including the ability to consider individual complaints from all migrant workers irrespective of their nationality and to provide them with a remedy;**

(c) **Provide adequate human, technical and financial resources to the Commission to enable it to effectively discharge its mandate in full compliance with the Paris Principles.**

Training on and dissemination of the Convention

25. The Committee takes note of the publication and targeted dissemination of the Convention in Portuguese, of training programmes for migrant communities and of the information provided by the State party that the second national action plan for human rights and citizenship (2017–2021) foresees the dissemination of information and support to Cabo Verdeans who wish to emigrate. The Committee is nevertheless concerned that the information may not sufficiently reach all communities of migrant workers, and that the training programmes may not relate to the Convention.

26. **Reiterating its previous recommendations,⁹ the Committee recommends that the State party:**

(a) **Develop education and training programmes on the rights of migrant workers and members of their families under the Convention and ensure that such programmes are made available to all persons working in the area of migration, in particular law enforcement and border authorities, judges, prosecutors, consular and national, regional and local officials, social workers and civil society organizations, including migrants' organizations;**

(b) **Take further steps to ensure access by migrant workers to information and guidance on their rights under the Convention in all commonly used languages in the State party, in particular through pre-employment and pre-departure orientation programmes;**

(c) **Strengthen its work with civil society organizations, including migrants' organizations, and the media to disseminate information about and promote the Convention throughout the State party, and continue to consult them in the preparation of its periodic reports.**

2. General principles (arts. 7 and 83)

Non-discrimination

27. The Committee notes the 2019 publications on foreign communities and immigrants in Cabo Verde; the 2017 information and awareness-raising campaign on Cabo Verde For All as a strategy to promote respect for differences in a migration context and to prevent discriminatory practices; the objective of combating discrimination and xenophobia in the second national action plan for human rights and citizenship (2017–2022); and the special anti-discrimination bill initiated by the National Commission on Human Rights and Citizenship, which is currently before the parliament. The Committee is concerned, however, that discriminatory attitudes against migrant workers persist in the State party, including among officials; that alleged violations are rarely investigated; and that alleged perpetrators are not prosecuted or convicted.

28. **Reiterating its previous recommendations,¹⁰ the Committee recommends that the State party:**

(a) **Take all necessary legislative and policy measures to ensure that all migrant workers and members of their families within the territory or subject to its jurisdiction, regardless of their status, enjoy without discrimination the rights recognized by the Convention, in accordance with article 7 thereof, including by swiftly adopting the special anti-discrimination bill;**

(b) **Raise awareness among all relevant stakeholders, in particular migration officials and the general public, of the rights of migrant workers and members of their families, and of the importance both of eliminating discrimination against them and of combating social stigmatization;**

(c) **Increase its efforts to investigate, prosecute and punish discriminatory practices by strictly applying criminal law provisions, such as article 161 of the Penal Code on the crime of discrimination.**

Right to an effective remedy

29. The Committee notes that the Constitution, the Law on the entry into, stay in, and exit and removal from Cabo Verde of foreign nationals and the Labour Code provide for access to justice for all migrant workers regardless of their status, including avenues to lodge individual complaints with the Office of the Ombudsperson, the General Directorate of Labour, the General Inspectorate of Labour and the National Commission for Human Rights

⁹ Ibid., para. 23.

¹⁰ Ibid., paras. 25 and 27.

and Citizenship, if the alleged victim of a human rights violation is a migrant. The Committee is, however, concerned that the legislation may lack sufficient clarity regarding time limits for appeal, that decisions are not always communicated in a language that the migrant worker and members of their families understand and that access to interpretation and translation for appealing decisions is not always available.

30. **Reiterating its previous recommendations,¹¹ the Committee recommends that the State party:**

(a) **Ensure that, in practice, migrant workers and members of their families, including those in an irregular situation, have opportunities equal to those of nationals of the State party to file complaints and obtain effective redress in the courts and other entities in cases when their rights under the Convention have been violated, including by removing obstacles to access to justice, including portable justice, for migrants in an irregular situation, and legally clarifying the time limits for appeals;**

(b) **Ensure that legal assistance is based on non-discrimination and is easily accessible and free of charge;**

(c) **Intensify its efforts to ensure that migrant workers and members of their families, including those in an irregular situation, are informed about the judicial and other remedies available to them, and are properly informed in writing in a language that they understand of the reasons for an administrative or judicial decision, including decisions related to refusal of entry.**

3. **Human rights of all migrant workers and members of their families (arts. 8–35)**

Border management and migrants in transit

31. The Committee notes the efforts by the State party to simplify and accelerate the visa application and border-crossing procedures. The Committee is, however, concerned about a border regime in the State party that focuses on combating “illegal” immigration defined as a security threat, and about reports of the use of offensive language or behaviour by some border police officers against migrant workers and members of their families.

32. **In line with the Recommended Principles and Guidelines on Human Rights at International Borders of the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Committee recommends that the State party:**

(a) **Adopt a human rights-based approach to border management, including in effective consultations with relevant stakeholders such as national judicial and human rights bodies, academia and civil society actors, including migrants’ organizations, in the development, adoption and implementation of border-related measures;**

(b) **Ensure that migrants who have suffered human rights violations or abuses as a result of border governance measures have equal and effective access to justice and remedies, that violators are prosecuted and appropriately punished and that border authorities are systematically trained in international human rights law relevant to their work.**

Right to leave

33. The Committee notes with appreciation that article 50 (1) of the Constitution guarantees the right to leave the territory of the State party. The Committee is nevertheless concerned about reports that migrant workers and members of their families in an irregular situation, however, may at times be prevented from leaving the State party due to the inability to pay fines imposed on them as a consequence of irregular entry or stay, unless they declare to the Commission for Analysis and Decision on Requests for Voluntary Return that they are willing to leave the country voluntarily, in accordance with Decree Law No. 46/2019.

¹¹ Ibid., para. 29.

34. **The Committee urges the State party to take appropriate legislative and other measures to ensure that migrant workers and members of their families in an irregular situation are not prevented from leaving the State party solely for reasons of not being able to pay a fine for irregular entry or stay, bearing in mind that for a return to be qualified as voluntary it has to be a fully informed decision taken without constraints and backed by the availability of sufficient valid alternatives, such as temporary permits for work or study or humanitarian purposes or opportunities for obtaining permanent residence or nationality.**

Freedom of thought, conscience and religion

35. The Committee notes that the Constitution guarantees freedom of thought, religion and worship as constitutional rights for everyone. It is, however, concerned that amendments to the Law of religious freedom and worship, which require religious groups to obtain the notarized signatures of 500 members before they may commence any activities in the State party, might pose obstacles for immigrant communities for exercising their right to freedom of thought, conscience and religion.

36. **The Committee recommends that the State party take all necessary legislative and policy measures to ensure that the right to freedom to manifest one's religion or belief is subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others, in accordance with article 12 (3) of the Convention.**

Labour exploitation and other forms of ill-treatment

37. The Committee notes the measures to combat forced labour, such as the national action plan for the prevention and eradication of child labour, and the adoption of a list of dangerous work for children and adolescents and of legislation combating sexual abuse and exploitation. The Committee nevertheless remains seriously concerned about reports that children are employed as domestic workers, and that migrant workers employed in the agricultural and fishing sectors, including from China, Guinea, Guinea-Bissau, Nigeria and Senegal, may be subjected to extremely poor working conditions and be vulnerable to forced labour, and that the General Inspectorate of Labour has not detected any situation of forced or compulsory labour in the country according to the information provided by the State party.

38. **In accordance with targets 8.7 and 16.2 of the Sustainable Development Goals, the Committee recommends that the State party:**

(a) **Increase labour inspections, in particular in the informal sector of the economy, and create in-situ labour inspection offices on all islands where migrant workers are employed;**

(b) **Prosecute, punish and sanction persons or groups exploiting migrant workers, in particular children, or subjecting them to forced labour and abuse, especially in the informal economy;**

(c) **Provide adequate assistance, protection and rehabilitation, including psychosocial rehabilitation, to migrant workers, in particular children, who have been victims of labour exploitation;**

(d) **Compile information on the extent of child labour, including of migrant children, with a view to establishing policies, strategies and enforcement mechanisms to ensure compliance of its legislative and policy framework with its obligations under the ILO Forced Labour Convention, 1930 (No. 29), the ILO Abolition of Forced Labour Convention, 1957 (No. 105) and the ILO Worst Forms of Child Labour Convention, 1999 (No. 182).**

Due process, detention, and equality before the courts

39. The Committee notes the explanations provided by the State party that it does not practice the detention of migrants in an irregular situation, including children, and gives preference to alternatives to detention, although Law No. 106/V/99 foresees the establishment of so-called "temporary installation centres". It is, however, concerned that:

(a) The Law on the entry into, stay in, and exit and removal from Cabo Verde of foreign nationals legally permits the administrative detention of vulnerable groups of migrants in an irregular situation;

(b) The same Law lacks a maximum time limit for the detention of migrants in an irregular situation held in temporary detention centres in case of an expulsion order, that the period before the immigration detainees must be presented before a judge extends to 48 hours and that the Committee has received reports that the justification provided to immigration detainees who do not understand Cabo Verdean languages for their deprivation of liberty is often different from that in the written documents formalizing the detention, which could be tantamount to arbitrary detention;

(c) The Committee has received reports that alternative measures to detention are not equally applied to persons who do not understand Cabo Verdean languages.

40. **With reference to its previous recommendations,¹² and in accordance with its general comment No. 5 (2021), the Committee recommends that the State party:**

(a) **Adopt measures to phase out, and ultimately put an end to, immigration detention; enact a presumption in law against detention and therefore in favour of freedom; and immediately cease migration detention of vulnerable groups of migrant workers and members of their families as well as asylum seekers, refugees and stateless persons;**

(b) **Ensure that:**

(i) **The detention of migrants is an exceptional measure of last resort, pursuing a legitimate end, and that it is necessary and proportionate, and applied for the shortest possible period of time in all other cases;**

(ii) **The grounds for detention are specified in each case, with specific reasons why alternative measures cannot be implemented;**

(iii) **The measure is reviewed within 24 hours by an independent and impartial judicial authority;**

(iv) **In line with its human rights obligations, alternative measures to detention are considered and made use of before imposing detention measures. The Committee recognizes as alternatives to detention all community-based care measures or non-custodial accommodation solutions – in law, policy or practice – that are less restrictive than detention and which must be considered in the context of lawful detention decision procedures to ensure that detention is necessary and proportionate in all cases, with the aim of respecting the human rights and avoiding the arbitrary detention of migrants, asylum seekers, refugees and stateless persons;**

(c) **Ensure that alternative measures to detention are applied to asylum seekers and refugees, and in all cases of voluntary return, and that migrant workers and members of their families are informed of their rights and about procedures in the detention context in a language they understand.**

Expulsion

41. The Committee notes the explanation provided by the State party, in which it indicates that 20 expulsion orders have been carried out between 2019 and 2022, solely on the basis of judicial rather than administrative decisions, and that article 80 of the Law on the entry into, stay in, and exit and removal from Cabo Verde of foreign nationals contains a right to appeal an expulsion order. The Committee is, however, seriously concerned about:

(a) Reports that expulsion orders are executed rapidly and a request for judicial review of the expulsion order does not have suspensive effect;

¹² Ibid., para. 31.

(b) Reports that expulsion orders may be executed before the concerned person has been given an opportunity to seek asylum, despite the legal possibility to do so according to the information provided by the State party;

(c) Reports that files concerning expulsion orders are not systematically shared with the National Commission for Human Rights and Citizenship for the human rights monitoring of the execution of expulsion orders, despite the legal requirements for the State party's authorities to do so;

(d) The lack of information on policies designed to provide alternatives to expulsion or return.

42. The Committee urges the State party to:

(a) Take the necessary legislative steps to provide for a statutory and automatic suspensive effect of appeals in court against expulsion orders, and guarantee due process and procedural safeguards so as to ensure that migrant workers and members of their families who are subject to expulsion proceedings may exercise their rights to seek a stay of the decision of expulsion pending consideration of their case by a competent authority, in accordance with article 22 (4) of the Convention;

(b) Ensure that the principle of non-refoulement is upheld at all times and in all situations;

(c) Ensure the systematic sharing of files concerning expulsion orders with the National Commission for Human Rights and Citizenship as the monitoring mechanism to ensure that expulsions of migrant workers and members of their families are conducted in full compliance with international standards and the State party's domestic laws, and ensure effective coordination with the State of origin or the receiving State;

(d) Strengthen the implementation of policies and mechanisms designed to provide alternatives to expulsion or return, including asylum and international protection procedures, leave to remain on humanitarian grounds and ordinary regularization mechanisms that are regulated by law, in accordance with article 69 of the Convention, and which apply to all migrants, irrespective of their migration status.

Consular assistance

43. The Committee notes the efforts taken by the State party to provide consular assistance to its nationals abroad under the auspices of the General Directorate of Communities, Consular Affairs and Migration, and the information and data provided about consular, diplomatic and legal assistance provided to nationals of Cabo Verde abroad. It regrets, however, that legal assistance to Cabo Verdean migrants was discontinued in Portugal. The Committee is concerned about reports that migrant workers and members of their families are not always aware of their right to consular assistance and that the authorities do not always inform the authorities in the country of destination of all expulsion decisions, despite the legal requirement in article 88 of the Law on the entry into, stay in, and exit and removal from Cabo Verde of foreign nationals.

44. With reference to its previous concluding observations,¹³ the Committee recommends that the State party:

(a) Take the necessary steps to ensure that the consular or diplomatic authorities of countries of origin, or of a country representing the interests of those countries, are systematically notified of expulsion decisions, and of decisions concerning arrest and detention, rendered by the State party on their nationals;

(b) Ensure that foreign migrant workers and members of their families who have received such a decision have recourse to consular support to protect their rights in the Convention;

¹³ Ibid., paras. 31 and 35.

(c) **Decisively and swiftly proceed with its plans to revamp its consular and diplomatic network in countries of destinations, including through extending the number of honorary consulates in countries where the State party does not have a consular or diplomatic representation, in accordance with its intention expressed during the constructive dialogue.**

Remuneration and conditions of work

45. The Committee notes the information provided by the State party indicating that equal rights are granted in practice to migrant workers and members of their families in an irregular situation. The Committee is nevertheless concerned that the Labour Code only confers equality of rights and duties to migrant workers in a regular situation. The Committee is further concerned about reports that migrant workers are paid considerably less than their Cabo Verdean counterparts who perform the same work, and about reports of non-compliance with labour legislation and poor working conditions, especially for migrant workers in the retail, service and construction sector.

46. **The Committee recommends that the State party:**

(a) **Guarantee, in law and in practice, the labour rights of all migrant workers within its territory;**

(b) **Ensure that migrant workers enjoy treatment not less favourable than that which applies to nationals in respect of remuneration and working conditions and that this obligation is strictly enforced through regular and unannounced labour inspections at locations where migrant workers are employed, in particular in the retail, service and construction industries.**

Freedom to join and take part in meetings of trade unions

47. The Committee notes that migrant workers in a regular situation have the right to freedom of affiliation in trade unions and professional organizations, in accordance with article 69 of the Law on the entry into, stay in, and exit and removal from Cabo Verde of foreign nationals. The Committee is concerned that this right does not apply to migrant workers in an irregular situation.

48. **The Committee recommends that the State party take all measures necessary, including legislative amendments, to guarantee all migrant workers, including those in an irregular situation, the right to take part in trade union activities and to freely join trade unions, in accordance with article 26 of the Convention and the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).**

Social security

49. The Committee notes that migrant workers enjoy the right to social security on equal terms with nationals, provided that they have been residents of Cabo Verde for at least three years, in accordance with article 65 (2) of the Law on the entry into, stay in, and exit and removal from Cabo Verde of foreign nationals. It notes with appreciation that, out of a total of around 29,000 families, more than 650 migrants have benefited from a social solidarity income, and that 1,300 migrants have benefited from the minimum social inclusion income and social emergency income, introduced during the COVID-19 pandemic. The Committee further notes that Cabo Verde ratified the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102), in January 2020, and accepted its parts III, V and VII, in accordance with its article 2 (a) (ii) and (b), and signed the Multilateral Social Security Convention of the Community of Portuguese Language-speaking Countries and social security agreements with several European Union countries as well as Angola and Senegal, which include periodic review mechanisms at the technical levels. Nevertheless, the Committee is concerned about the information provided by the State party that only 5,389 foreign migrant workers have thus far been registered in the Single Social Registry, and about reports that some private companies do not register their migrant workers and deduct the social security dues. It regrets that the State party has not signed the Multilateral Convention on Social Security of the Inter-African Conference on Social Security.

50. With reference to its previous concluding observations,¹⁴ the Committee recommends that the State party:

(a) Ensure that all migrant workers and members of their families, irrespective of their migration status, are able to, in law and in practice, subscribe to social security schemes on the basis of equality of treatment with Cabo Verdean workers, including in the informal sectors of the economy, and that they are informed of their rights in this regard, including through the continuation of relevant awareness-raising campaigns by the High Authority for Immigration in partnership with the National Institute of Social Security;

(b) Continue to enter into, and monitor the implementation of, bilateral and multilateral social security agreements with all destination countries, as outlined by the State party during the constructive dialogue, that provide for the protection of migrant workers' human rights, including the right to social security, and include gender-responsive monitoring and review mechanisms in those agreements;

(c) Consider signing the Multilateral Convention on Social Security of the Inter-African Conference on Social Insurance, given the State party's proximity to West African countries and corresponding migration flows.

Medical care and education

51. The Committee notes the State party's assurances that all migrant workers and members of their families, irrespective of their migration status, are granted access to education, facilitated by exemptions from, or by the provision of subsidies for, school fees for preschool, primary and secondary education during the COVID-19 pandemic, and emergency medical care. The Committee is, however, concerned at the absence of corresponding legal guarantees, as article 65 of the Law on the entry into, stay in, and exit and removal from Cabo Verde of foreign nationals confers these rights to migrant workers and members of their families in a regular situation only. The Committee is further concerned about reports of refusals to provide medical care to migrant workers and members of their families in an irregular situation.

52. In line with joint general comments No. 3 and No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 and No. 23 of the Committee on the Rights of the Child, and in accordance with target 4.1 of the Sustainable Development Goals, the Committee urges the State party to:

(a) Take all measures necessary, including through legislative amendments, to ensure that all migrant workers and members of their families, including those in an irregular situation, have access to the health-care system and enjoy the legal right and practical access to preschool, primary and secondary education on a basis of equality of treatment with nationals of the State party;

(b) Establish a mechanism to ensure that personal information provided by migrants upon registration with health-care services, educational institutions and other social services, is not used against them for the purpose of reporting or discriminating against them on grounds of their nationality, origin or their irregular migration status.

Birth registration and nationality

53. The Committee welcomes the measures taken by the State party to increase the rate of birth registrations and notes the recommendation made in 2021 by the National Immigration Council to facilitate access to Cabo Verdean nationality to migrant children born in the territory, inter alia, by reducing the requirement of at least one parent residing regularly in the State party from five years to three years, which was currently being considered in the parliament. The Committee is, however, concerned about reports that children, including those in an irregular situation, who were not born in hospitals might not always be registered,

¹⁴ Ibid., para. 41.

and that the State party is not a party to the 1954 Convention relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness.

54. **In line with joint general comments No. 3 and No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families / No. 22 and No. 23 of the Committee on the Rights of the Child, and in accordance with target 16.9 of the Sustainable Development Goals, the Committee recommends that the State party:**

(a) **Ensure that all children of Cabo Verdean migrant workers abroad and children born on the territory of the State party, in particular children born to migrants in an irregular situation and asylum seekers, are registered at birth and issued personal identity documents, and that it raise awareness on the importance of birth registration among them;**

(b) **Take the necessary measures, including legislative measures, to facilitate access to Cabo Verdean nationality to children born to migrant workers and members of their families in the State party, in particular for those in an irregular situation, in order to avoid any risk of their becoming stateless;**

(c) **Ratify or accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.**

4. **Other rights of migrant workers and members of their families who are in a regular situation (arts. 36–56)**

Pre-departure and right to be informed

55. The Committee regrets that the pilot programme establishing a migrant support centre in the country of origin has been discontinued and that no other pre-departure orientation programmes have been established to replace it.

56. **Recalling its previous recommendations,¹⁵ the Committee recommends that the State party develop targeted pre-departure and awareness-raising programmes, including in consultation with relevant non-governmental organizations, in particular migrants' organizations, and recognized and reliable recruitment agencies.**

Right to vote and to be elected in the State of origin

57. The Committee notes the efforts undertaken by the State party to facilitate the right of Cabo Verdean migrant workers and members of their families who live abroad to participate in public affairs and to vote in the presidential and parliamentary elections, including by providing for six reserved seats in the National Assembly for Cabo Verdeans in the diaspora. The Committee is nevertheless concerned that delays in registering them abroad for the elections and the absence of adequate information about the electoral process may limit their participation in elections.

58. **The Committee recommends that the State party:**

(a) **Strengthen measures to guarantee the right of all Cabo Verdean migrant workers and members of their families who live abroad to vote and be elected by facilitating their registration and participation in elections, including through measures to ensure electoral registration of the diaspora beyond the scope of the electoral period;**

(b) **Facilitate voting by mail and via the Internet, and secure sufficient funding to ensure overseas voting.**

Right to transfer earnings and savings

59. The Committee take note of the high number of remittances sent to the State party from Cabo Verdean migrant workers who live abroad and welcomes the introduction of special accounts for migrants, with subsidized interest rates. The Committee is nevertheless

¹⁵ Ibid., para. 39.

concerned about reports that migrant workers and members of their families favour informal channels to remit money due to high transfer costs. The Committee is also concerned about the absence of information about partnerships with financial institutions to facilitate the transfer of earnings and savings of Cabo Verdean migrant workers to Cabo Verde and of migrant workers in the State party to their States of origin.

60. **In accordance with target 10.c of the Sustainable Development Goals, the Committee invites the State party to:**

(a) **Take measures to reduce to less than 3 per cent the cost of sending and receiving funds;**

(b) **Provide information in its next periodic report on existing partnerships with financial institutions that are aimed at facilitating remittance transfers of Cabo Verdean migrant workers to Cabo Verde and of migrant workers in the State party to their States of origin.**

5. Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families (arts. 64–71)

Children in situations of international migration

61. The Committee notes the measures taken to combat violence against children, including migrant children, and to strengthen protection, social reintegration and prevention mechanisms for children living in street situations. It is, however, concerned about reports of an increasing number of children of migrant workers living in street situations, in particular in the capital of the State party.

62. **In line with joint general comments No. 3 and No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families / No. 22 and No. 23 of the Committee on the Rights of the Child, the Committee recommends that the State party:**

(a) **Conduct a nationwide study on migrant children, both migrant children in the State party and children of Cabo Verdean migrant workers living abroad who have been left behind in the State party, and on migrant children living in street situations, to establish the demographic profile of this population in order to guide the State party's policies and provide information in its next periodic report in this regard;**

(b) **Adopt comprehensive protection measures as part of an inclusive national action plan to address the phenomenon of violence against migrant children and those in street situations in accordance with the provisions of the ILO Worst Forms of Child Labour Convention, 1999 (No. 182).**

International cooperation with countries of transit and destination

63. The Committee notes the conclusion of cooperation agreements on migration, and the application of mobility partnership schemes with the European Union and the Community of Portuguese Language-speaking Countries. It also notes the application of the treaty establishing the Economic Community of West African States and its Protocol relating to Free Movement of Persons, Right of Residence and Establishment, which advocate the free movement of citizens of member countries, and their property, within the corresponding economic area in West Africa. The Committee regrets, however, that the State party has not yet signed bilateral or multilateral agreements with all destination countries where significant numbers of Cabo Verdeans live.

64. **The Committee recommends that the State party:**

(a) **Continue to enter into bilateral and multilateral agreements on the free movement of migrant workers and members of their families, in particular with transit and destination countries with a significant Cabo Verdean diaspora, in order to better protect their rights and facilitate the provision of appropriate consular and other services so as to ensure sound, equitable and humane conditions for Cabo Verdean migrant workers;**

(b) **Ensure that such bilateral and multilateral agreements are fully consistent with the Convention, and the Committee's general comments;**

(c) **Engage with OHCHR and seek technical assistance regarding the implementation of said agreements and the negotiation of future agreements to ensure that they are aligned with the Convention.**

Migrant domestic workers

65. The Committee takes note of the adoption of Decree Law No. 49/2009, which includes domestic workers in the Social Protection (Organic) Law, and the information provided by the State party indicating that efforts to regulate domestic work are currently ongoing. The Committee is, however, concerned about reports that many migrant domestic workers, most of whom are women, are victims of abuse and harassment, that they receive salaries below the national average and that they do not enjoy social security protection.

66. **In the light of its general comment No. 1, the Committee recommends that the State party:**

(a) **Take the necessary measures, including legislative amendments, if necessary, to ensure that its social protection laws include gender-responsive regulations on migrant domestic workers, and provisions related to the protection of the rights of migrant domestic workers abroad;**

(b) **Conduct awareness-raising campaigns, in consultation with non-governmental organizations, in particular migrants' organizations, through the media and public education programmes on the situation of migrant domestic workers and their rights, support unions working with migrant domestic workers and strengthen labour inspection mechanisms;**

(c) **Create a mechanism whereby migrant domestic workers can lodge complaints when their rights have been violated, including abuse regarding unfair labour practices in the domestic sphere, and further develop support services and shelters for victims of abuse in the domestic sphere;**

(d) **Ratify the ILO Domestic Workers Convention, 2011 (No. 189).**

Return and reintegration

67. The Committee notes the measures taken to assist the return and reintegration of Cabo Verdean migrant workers, such as the adoption of the Emigrant Investor Code of 2020, which is aimed at creating a favourable framework for attracting investment by and the return of Cabo Verdean migrant workers from abroad, through the provision of tax breaks and other financial exemptions and incentives. The Committee regrets, however, the lack of quantifiable data on the results of these laws and programmes and also regrets that the State party has not set up a comprehensive return and reintegration policy to assist migrant workers and members of their families in their reintegration in the State party.

68. **Recalling its previous recommendations,¹⁶ the Committee recommends that the State party continue to take measures to ensure that the appropriate social, economic, legal or other necessary conditions are in place to facilitate the return and durable reintegration of Cabo Verdean migrant workers and members of their families in the State party, as provided for in article 67 of the Convention, and provide information in its next periodic report in this regard.**

Trafficking in persons

69. The Committee notes with appreciation the amendments related to trafficking in persons in the Law on the entry into, stay in, and exit and removal from Cabo Verde of foreign nationals, the revisions of the Penal Code in this area and the establishment of the Observatory for Monitoring and Rapid Identification of Human Trafficking, in 2019. The Committee further welcomes the adoption of the State party's first national action plan to

¹⁶ Ibid., para. 47.

combat trafficking in persons (2018–2021) and coordination with other countries in this regard. It remains, however, concerned about:

- (a) The limited resources available to implement the national action plan;
- (b) The low number of investigations, prosecutions and convictions of perpetrators of trafficking offences, given that no case of trafficking in persons of children has yet been detected, and the difficulties faced in providing disaggregated data according to the information provided by the State party;
- (c) The lack of information concerning the existence of a formal mechanism for the referral of victims of trafficking and the low number of government-funded shelters for victims of trafficking;
- (d) The reported low level of awareness among relevant stakeholders about the phenomenon, in particular the anti-trafficking amendments to the Penal Code.

70. **Recalling its previous concluding observations,¹⁷ and in accordance with the OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking, in line with target 5.2 of the Sustainable Development Goals, the Committee recommends that the State party:**

- (a) **Adopt a new national action plan to combat trafficking in persons and ensure its effective implementation to prevent and combat trafficking in persons, including through the provision of adequate human, technical and financial resources for its implementation;**
- (b) **Ensure the prompt, effective and impartial investigation, prosecution and punishment of all acts of trafficking in persons and related offences;**
- (c) **Establish mechanisms of support, referral, rehabilitation and social integration of trafficking victims, including by providing them with access to government-funded shelters, and legal, medical and psychosocial assistance;**
- (d) **Strengthen gender-responsive and child-friendly training, including about the anti-trafficking amendments to the Penal Code, among law enforcement officials, judges, prosecutors, labour inspectors, teachers, health-care workers and the staff of the State party’s embassies and consulates, step up awareness-raising campaigns on the prevention of trafficking of migrant workers, and encourage the private sector to adopt a “zero tolerance” policy to sexual exploitation in tourism and to protect persons against all forms of exploitation, including commercial sexual exploitation and forced labour and services;**
- (e) **Provide in its next periodic report data on trafficking, exploitation of prostitution of women and girls, the number of prosecutions and convictions in trafficking and sexual exploitation cases, and the impact of the measures taken to combat these phenomena.**

Measures to address migrant workers in an irregular situation

71. The Committee welcomes the creation of an exceptional regime of extraordinary regularization of the situation of irregular migrants residing in the State party (Decree-Law No. 72/2021), including migrant workers and their families from the Economic Community of West African States and the member countries of the Community of Portuguese Language-speaking Countries, primarily from Guinea, Guinea-Bissau and Senegal, in 2021, which has been extended to migrants from other countries in an irregular situation in 2022. The Committee, however, regrets the lack of information about the success rate of the more than 3,000 applications that have been received from migrants in an irregular situation to date, and about whether the regime will continue beyond June 2022.

72. **The Committee recommends, in line with the OHCHR Recommended Principles and Guidelines on Human Rights at International Borders, that the State party:**

¹⁷ Ibid., para. 51.

(a) Review the results of the measures taken for the establishment of procedures for the regularization of the situation of migrant workers in an irregular situation and members of their families, in particular women migrant workers, broaden their scope and extend them beyond June 2022, if necessary, so as to ensure that such a situation does not persist;

(b) Raise awareness among migrant workers who are in an irregular situation about such procedures;

(c) Provide information about the regularization measures and their results in its next periodic report.

6. Dissemination and follow-up

Dissemination

73. The Committee requests the State party to ensure the timely dissemination of the present concluding observations, in the official language and recognized national language of the State party, to the relevant State institutions at all levels, including to government ministries, the legislature, the judiciary and relevant local authorities, as well as to non-governmental organizations and other members of civil society.

Technical assistance

74. The Committee recommends that the State party further avail itself of international and intergovernmental assistance for the implementation of the recommendations contained in the present concluding observations in line with the 2030 Agenda for Sustainable Development. It also recommends that the State party continue its cooperation with specialized agencies and programmes of the United Nations.

Follow-up to concluding observations

75. The Committee requests the State party to provide, within two years (that is, by 1 May 2024), written information on the implementation of the recommendations contained in paragraph 12 (b) (legislation and application); paragraphs 16 and 66 (d) (ratification of the ILO Domestic Workers Convention, 2011 (No. 189)); paragraph 24 (independent monitoring); paragraph 44 (consular assistance); and paragraph 56 (pre-departure and right to be informed).

Next periodic report

76. The Committee requests the State party to submit its fourth periodic report by 1 May 2027. In doing so, the State party may wish to follow the simplified reporting procedure. The Committee draws the State party's attention to its harmonized treaty-specific guidelines.¹⁸

¹⁸ [HRI/GEN/2/Rev.6](#).