



# International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances

## Report submitted by Cabo Verde under article 29 (1) of the Convention, due in 2025\*

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\* The present document is being issued without formal editing.



## I. Introduction

1. Cabo Verde has ratified the International Convention for the Protection of All Persons from Enforced Disappearance by a resolution of the National Assembly.
2. From the outset, the Government has defined and committed to promoting a policy of equal opportunities for all, implementing a raft of measures designed to eliminate barriers or situations that could jeopardize people's rights and to create the conditions to ensure that everyone feels integrated into society, while recognizing the need for policies for prevention, the protection of individuals and the support of families and for raising awareness in society of the values of respect and solidarity with others.
3. Activities in the area of welfare and social intervention are oriented towards and focused on the goal of ensuring families' autonomy, self-sufficiency and social inclusion through education, training, employment, income generation, production and social protection, with positive discrimination in situations that require active policies for equal opportunities and protection of persons in difficult situations.

### A. Drafting methodology and process

4. Representatives of public institutions were involved in the preparation of this report, and their contributions were collected with a view to increasing engagement and reaching consensus; the report was shared with civil society and approved by the Council of Ministers.
5. The report of Cabo Verde was prepared by the Interministerial Commission for the Preparation of National Human Rights Reports, established by resolution No. 55/2017 of 15 June 2017, amended by resolutions No. 98/2022 of 26 October 2022 and No. 56/2025 of 1 July 2025, and laid out following the guidelines on the form and content of reports under article 29 to be submitted by States Parties to the Convention, adopted by the Committee at its second session (26–30 March 2012).
6. The aim of this report is to examine the human rights situation in Cabo Verde, with particular emphasis on the protection of all persons from enforced disappearance, covering the period from ratification of the Convention to the present day and demonstrating the progress achieved, the efforts made and the challenges encountered in the progressive and gradual implementation of the Convention.

### B. General information

7. Cabo Verde is an island country in the Atlantic Ocean, located some 455 kilometres off the coast of Africa. The 10 islands of the archipelago, 9 of which are inhabited, have a total surface area of 4,033 km<sup>2</sup>. The capital is Praia, on the island of Santiago.

#### Geography

8. An archipelago of volcanic origin, Cabo Verde comprises 10 islands (9 inhabited) and eight islets, with mountainous terrain and varied landscapes. The islands are divided into two groups: the Barlavento (windward) to the north and the Sotavento (leeward) to the south. The country has a dry tropical climate, with mild temperatures year-round.

#### Population

9. According to the 2021 census, Cabo Verde had a population of 491,233 inhabitants, of whom 50.1 per cent were male and 49.9 per cent female. Projections for 2025 indicate that the population may have grown to about 590,000 inhabitants.
10. The 2021 census revealed a slight population decline in comparison with previous censuses, attributed to emigration and a falling birth rate.
11. The population is spread throughout the islands, with an average density of 119 inhabitants per square kilometre.

12. Most Cabo Verdeans are of mixed ancestry, with African and European influences reflected in the predominant skin colour of the population.

### **Languages**

13. The official language is Portuguese, but Cabo Verdean Creole (Kriolu) is the mother tongue of the majority and the most widely spoken language.

### **Economy**

14. The economy is based on agriculture, fishing, tourism and the service sector. Mineral resources are scarce, with limited exploitation.

### **Culture**

15. The culture is a blend of African, European and Cabo Verdean diaspora influences. The country's main cultural features are its music, dance, cuisine and traditions.

### **History**

16. Cabo Verde was colonized by Portugal in the fifteenth century and became independent in 1975. It celebrated the fiftieth anniversary of its independence on 5 July 2025. The country's history is marked by slavery, resistance to colonization and the struggle for independence and economic development.

17. The country adopted the democratic system and held its first free and democratic elections on 13 January 1991.

### **Religion**

18. The predominant religion is Catholicism, but other religions are also practised.

### **Government**

19. Cabo Verde is a democratic republic with a multiparty parliamentary system. It is a member of the African Union, the Economic Community of West African States and the Community of Portuguese-speaking Countries, whose presidency it held during the 2019–2020 biennium. Cabo Verde is home to the headquarters of the International Portuguese Language Institute of the Community of Portuguese-speaking Countries.

20. According to the Democracy Index 2023 report of the Economist Intelligence Unit, published in 2024, Cabo Verdean democracy ranked third in Africa and thirty-fifth worldwide.

21. Shortly after the country's independence, a single-party system was adopted, with a Constitution that remained in force until the political system opened up in 1991. A new Constitution was adopted in 1992 and has been revised three times – in 1995, 1999 and most recently in 2010. The new Constitution set out the fundamental principles of government. The President of the Republic is the Head of State and is elected by universal suffrage for a five-year term. The Prime Minister is the Head of Government and proposes the other ministers and secretaries of State. The candidate at the top of the list of the party with the most votes is appointed Prime Minister by the President after consultation with the political parties sitting in the National Assembly.

22. The 72 members of parliament are elected by universal suffrage for a five-year term. Three parties currently sit in the National Assembly: the Movement for Democracy, with 38 members of parliament, the African Party for the Independence of Cabo Verde with 30 and the Cabo Verdean Independent and Democratic Union with 4.

23. Political power is also exercised by the local authorities, namely the 22 municipalities, whose bodies are elected by universal suffrage and secret ballot for a four-year term.

24. The judicial system is composed of the Constitutional Court, the Supreme Court, the courts of appeal and the courts of cassation.

### **International relations**

25. The Government maintains bilateral relations with all Portuguese-speaking countries and other countries and participates in various international organizations. It also takes part in international conferences on political, economic, social and human rights issues. Since 2007, Cabo Verde has benefited from a special partnership with the European Union under the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States of the other part. The Cabo Verde escudo, the national currency, is pegged to the euro at a fixed exchange rate.

## **II. General framework for the protection and promotion of human rights**

26. Cabo Verde enjoys a good international and regional reputation and is recognized for its good governance and respect for human rights. However, like other States, it is not immune to challenges and is facing certain difficulties, including the risks associated with the current global crisis, the economic, social and political impacts of which threaten human rights on the world stage.

27. In this regard, it must be stressed that there have been no reports of serious human rights violations that could have a negative impact on the country's evaluation by the Human Rights Council. Despite significant progress in upholding human rights, Cabo Verde faces major challenges in the short and medium term. Social dynamics and economic development present particular challenges for the consolidation of human rights. Corroborating other sources, the 2020 report on human rights in Cabo Verde, produced by the Department of State of the United States of America, recognized that there had been no significant human rights violations that year.

28. Regarding statistics on enforced disappearances, the Government has not recorded any cases of disappearances that may be connected with this complex crime.

29. Although some disappearances have been reported to the national authorities, and investigations are under way, the country has not been confronted with situations of this type, with the result that there are no data on the number of people who have fallen victim to enforced disappearance.

30. A comprehensive regulatory framework has been established and policy measures taken to create the conditions for the normal functioning of public and private institutions and civil society organizations, providing an environment for the full exercise of citizenship and the promotion and protection of human rights in the country.

31. These measures have facilitated the emergence of various associations, foundations, non-governmental organizations and networks that work to promote and protect human rights and raise public awareness so as to enhance knowledge of and respect for human rights in Cabo Verde.

32. The national human rights institutions are the Ombudsman's Office and the National Commission for Human Rights and Citizenship.

33. The Ombudsman's Office is an independent State body, elected by the National Assembly, whose essential task is to defend and promote the rights, freedoms, guarantees and legitimate interests of citizens, ensuring through informal means the fairness, legality and regularity of the exercise of public powers.

34. The National Commission for Human Rights and Citizenship, as the body responsible for the promotion and protection of human rights, citizenship and international humanitarian law in Cabo Verde, also acts as an advisory body and monitors public policies in these areas. It has endeavoured to publish and disseminate conventions, State reports and recommendations of treaty bodies and human rights mechanisms.

35. The Commission was designated as the country's national mechanism for the prevention of torture by resolution No. 98/2018 of 24 September 2018. Since its

establishment, the mechanism has made regular visits to places of deprivation of liberty, including prisons, police stations, centres for children in conflict with the law, facilities for persons with mental illness, criminal investigation police premises, and temporary holding facilities at international airports, and has produced reports and issued recommendations on measures to prevent torture and cruel, inhuman or degrading treatment.

36. In addition to the national human rights institutions, there are civil society organizations with responsibilities and remits in the area of human rights, such as the Cabo Verdean Network of Human Rights Defenders, and foundations and associations that contribute to the defence, protection and promotion of human rights by raising public awareness of the State's obligations in this area.

37. In order to comply with commitments undertaken at the international and regional levels, the Government, by a resolution of the Council of Ministers, established the Interministerial Commission for the Preparation of National Human Rights Reports, which is tasked with drafting initial and periodic national reports under the international human rights treaties and additional protocols to which Cabo Verde is a party. The Commission's membership is composed of representatives of various government departments, appointed by decree of the Prime Minister.

38. Particular attention has been paid to the most vulnerable groups, including children and adolescents, by protecting them from all forms of violence; women, through measures to promote gender equality; persons with disabilities; persons with mental illness; older persons; foreign nationals and immigrants; and lesbian, gay, bisexual, transgender and intersex persons and other sexual orientation minorities. An anti-discrimination bill is pending before the National Assembly.

39. The Government remains firmly committed to the continued design and implementation of social policy and solidarity measures and policies to actively promote employment and income generation, with a view to effective social inclusion and integration, while always striving to respect the Constitution and United Nations human rights concepts.

### **III. General legal framework on enforced disappearances**

40. Cabo Verde fully adheres to the principle of the sovereignty of the people. It has a modern Constitution that enshrines the primacy of the democratic rule of law, with an extensive catalogue of citizens' rights, freedoms and guarantees, and the dignity of the human person is understood as an absolute value that prevails over the State itself. The country is characterized by a system of government with a balance of powers between the different sovereign bodies, with a strong and independent judiciary that defends the supreme values of justice, respects universal human rights principles, is bound by the fundamental principle of respect for the status and dignity of the human person and observes the principles of good governance, transparency, accountability, peace and social justice.

41. The State attaches particular importance to human rights and has progressively ratified several conventions and additional protocols, thus harmonizing its legal framework with various international instruments, including:

- The International Convention for the Protection of All Persons from Enforced Disappearance, adopted by National Assembly resolution No. 57/X/2022, published in Official Gazette No. 50 of 25 May 2022. Letter of ratification dated 15 August 2022. Notification and deposit by note No. 30/DGAJT/2022, dated 6 September 2022, via the Permanent Mission of Cabo Verde in New York.
- The Optional Protocol to the Convention on the Rights of the Child on a communications procedure, adopted by National Assembly resolution No. 158/IX/2020, published in Official Gazette No. 36 of 26 March 2020. Letter of ratification dated 17 November 2020. Notification and deposit by note No. 27/GMNEC/SAJT/2020, dated 30 November 2020, at the Permanent Mission of Cabo Verde in New York.

- The Hague Convention on the Civil Aspects of International Child Abduction of 25 October 1980, adopted by National Assembly resolution No. 45/X/2022, published in Official Gazette No. 30 of 22 March 2022. Letter of accession dated 6 June 2022. Entry into force on 1 January 2023 (notice No. 2/2023, published in Official Gazette No. 28, series I, 20 March 2023).
- The Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children, adopted on 19 October 1996, ratified by National Assembly resolution No. 56/X/2022 of 25 May 2022.

42. Cabo Verde is a Party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol thereto, which was ratified by resolution No. 99/VIII/2014 of 21 February 2014 and incorporated into the domestic legal order by notice No. 02/2016, published in the Official Gazette of 12 May 2016.

43. The country has gradually succeeded in adapting its substantive law to the main requirements of the Convention against Torture. Since 1992, the Constitution has laid out in unequivocal terms the position of Cabo Verdean law in relation to torture, namely, the strict prohibition of its practice and of extradition and expulsion in cases where the person concerned might be subjected to torture. The Criminal Code provides that an offence of torture or cruel, inhuman or degrading treatment is punishable by between 4 and 10 years' imprisonment, if another more serious offence is not punishable under another provision.

44. In addition, the Code of Criminal Procedure categorically prohibits the use of evidence obtained through torture, physical coercion, ill-treatment or bodily harm, and several pieces of legislation concerning the security forces contain similar provisions. The Code on the Enforcement of Criminal Penalties, without explicitly mentioning torture, provides that in the enforcement of custodial measures all authorities must respect the physical and moral integrity of the prisoner, avoiding the use of unnecessary, abusive or unnecessarily harsh means.

45. As a State that strives to respect the dignity of the human person, Cabo Verde recognizes the inviolability and inalienability of human rights as the foundation of all human community, peace and justice. It also defends the right of peoples to self-determination and independence, supports the struggle of peoples against all forms of political or military domination and oppression and participates in the international fight against terrorism and international organized crime.

46. General international law forms an integral part of the Cabo Verdean legal order, in accordance with article 12 of the Constitution, which established a monist system. Duly approved or ratified international treaties and agreements enter into force in the domestic legal order after their official publication and their entry into force in the international legal order and for as long as they bind the State internationally. In other words, even if the provisions of international instruments ratified by the country are not reflected in national laws, they are valid and in force in the domestic legal order and can be invoked in any case.

47. In terms of hierarchy, article 12 (4) of the Constitution stipulates that duly approved or ratified norms and principles of general international law and treaty law, once they have entered into force in the international and national legal order, prevail over all domestic legislative and normative acts with a status below that of the Constitution. International conventions that meet the required conditions therefore form part of the Cabo Verdean legal order. Article 17 provides that international conventions, as well as laws, may enshrine rights, freedoms and guarantees not foreseen in the Constitution.

48. Article 210 of the Constitution provides that the decisions of courts established by international treaties, conventions or agreements to which Cabo Verde is a party, in accordance with the respective rules of jurisdiction and procedure, are binding upon it. There is no need to reopen proceedings, as such decisions will be directly enforceable and effective in the Cabo Verdean domestic legal order and be implemented according to the rules of jurisdiction and procedure.

49. Article 13 of the Constitution provides that the accession of the State of Cabo Verde to any international treaty or agreement must be approved in advance by the constitutionally

competent body. The approval process is therefore characterized by the participation of sovereign bodies, beginning with the Government, which negotiates and concludes the treaty or agreement (Constitution, arts. 203 (1) (i) and 204 (2) (d)), followed by the National Assembly, which approves the ratification or accession by a resolution (arts. 179, 177, 176 and 261 (2) (a)) and ending with the President of the Republic, who ratifies the treaty or agreement by decree (art. 136 (a)).

50. The Constitution (art. 30 (1) and (4)) guarantees the right of everyone to liberty and security of person and provides that all arrested or detained persons must be informed, in a clear and understandable manner, of the reasons for their arrest or detention and of their constitutional and legal rights, and be authorized to contact a lawyer either directly or through their family or a trusted person.

51. A corollary of this constitutional guarantee is the right of detained or imprisoned persons to know the identity of the persons responsible for their arrest or detention and their questioning (art. 30 (5)).

52. Article 20 (1) (a) of the Constitution recognizes the right of all individuals to apply to the Constitutional Court, by means of a remedy of *amparo*, to obtain the protection of fundamental rights, freedoms and guarantees enshrined in the Constitution against acts or omissions of the public authorities that violate said rights, freedoms and guarantees, once all ordinary remedies have been exhausted.

## IV. Specific information on each article of the Convention

### Article 1

53. The State recognizes the inviolability of rights, freedoms and guarantees as a fundamental principle and ensures their protection by imposing on public and private authorities the obligation to respect and guarantee the free exercise of these rights and the fulfilment of constitutional duties.

54. Article 15 (2) of the Constitution states that agents of the State and of other public entities shall bear criminal and disciplinary responsibility, under the terms of the law, for acts and omissions that result in the violation of rights, freedoms and guarantees. Article 18 states that constitutional rules relating to rights, freedoms and guarantees are binding on all public and private entities, are directly applicable and may be restricted only in cases expressly foreseen in the Constitution (art. 17 (4)).

55. In order to further guarantee these fundamental rights, article 274 of the Constitution stipulates that the declaration of a state of siege or emergency may under no circumstances impair the rights to life, to physical integrity, to personal identity or to civil capacity and citizenship, the non-retroactivity of criminal law, the right of defence of accused persons or the freedom of conscience and religion.

56. The Constitution also states that laws restricting rights, freedoms and guarantees must be of a general and abstract nature, must not have retroactive effects, must not diminish the scope or the essential content of constitutional rules, and must be limited to what is necessary to safeguard other constitutionally protected rights.

57. Because of this constitutional guarantee, there can be no restrictions that would allow exceptional circumstances to be invoked as a justification for enforced disappearance.

### Article 2

58. The statutory legal framework on enforced disappearance is set out under article 268-B (i) of the Criminal Code adopted by Legislative Decree No. 4/2003 of 18 November 2003, most recently amended by Act No. 117/IX/2021. This article defines enforced disappearance as detention, imprisonment or abduction encouraged by a State or political organization or carried out with its authorization, support or agreement, followed by the refusal to recognize the deprivation of liberty or to provide information on the situation

or whereabouts of the persons concerned, with the aim of denying them the protection of the law for a prolonged period of time.

59. Article 138 (1) of the same law provides that anyone who unlawfully arrests, detains, imprisons or abducts a person, or in any way deprives him or her of liberty, is punished by 2 to 6 years' imprisonment. The penalty is increased by one third, within the minimum and maximum limits, when the deprivation of liberty is carried out by an agent pretending to have the status of a public authority or involves gross abuse of the powers inherent to the exercise of public functions.

### **Article 3**

60. Cabo Verde has ratified the Convention, which it signed in 2007, and has gradually adopted legislative measures to adapt its national legal framework in conformity with the Convention.

61. The 2021 revision of the Criminal Code allowed for the introduction of article 268-B, which pays particular attention to enforced disappearances. Under that article, crimes against humanity, committed in the context of a widespread and systemic attack against any civilian population, include persecution, understood as the deprivation of the fundamental rights, in violation of international law, of a group or community that can be identified on political, racial, national, ethnic, cultural, religious or gender grounds or other grounds universally recognized as unacceptable under international law. Such crimes are punishable by 15 to 30 years' imprisonment.

62. The law provides for the same penalty for anyone who carries out, or causes to be carried out, the deportation, transfer or illegal deprivation of liberty of a civilian population.

63. Furthermore, article 332 of the Criminal Code provides that a competent official who unlawfully orders or enforces a measure of deprivation of liberty, or who refrains from ordering or enforcing such a measure in accordance with the law, is punishable by 1 to 5 years' imprisonment.

64. Anyone who prevents, hinders or creates serious obstacles to the assistance, by a lawyer or defence counsel, of a detained or imprisoned person, is punishable by a fine of up to 150 days.

### **Article 4**

65. Cabo Verde is committed to progressively and continually adapting its legal framework to the various international legal instruments that are binding on the State. In this way, the country has sought to align its criminal justice legislation with new paradigms and respond to challenging criminological phenomena that are gaining ground worldwide.

66. Although the legislature has granted the same criminal law protection against the offences of abduction, child abduction, arbitrary detention, deprivation of liberty, torture and deprivation of life, these have their own separate legal framework, which is distinct from the legal framework and classification of the offence of enforced disappearance.

67. Thus, under article 138 of the Criminal Code, anyone who unlawfully arrests, detains, holds or imprisons a person or in any way deprives him or her of liberty is punished by 2 to 6 years' imprisonment, the minimum and maximum limits being increased by one third when the victim is under 14 years of age, as foreseen under paragraph 3 of this article, in conjunction with article 124 (b) of the same law.

68. Similarly, the protection afforded against the offence of torture differs from that which is provided against enforced disappearance. Under article 162 of the Criminal Code, torture is understood as any act by which severe physical or mental pain or suffering is deliberately inflicted on a person with the aim of obtaining from him or her or from a third party information or a confession, or as punishment for an act he or she or a third party has committed or is suspected of having committed, and is punishable by 4 to 10 years' imprisonment.

## Article 5

69. Cabo Verde has sought to bring its domestic legislation into conformity with the international legal instruments to which it has acceded, so that its normative solutions are aligned with international best practice in the defence, protection and promotion of human rights.

70. For this reason, the 2021 amendments to the Criminal Code included the introduction, under title IV, “Crimes against the International Community”, of the offence of enforced disappearance of persons, defined as detention, imprisonment or abduction, encouraged by a State or political organization or carried out with its authorization, support or agreement, followed by the refusal to acknowledge the deprivation of liberty or to provide information on the situation or whereabouts of the persons concerned, with the aim of denying them the protection of the law for a prolonged period. The offence is punishable by 15 to 30 years’ imprisonment.

71. This transposition into national law is in harmony with the definition of enforced disappearance under article 2 of the Convention, demonstrating the country’s willingness to harmonize its legal framework with international principles in this area.

## Article 6

72. Cabo Verde has one of the world’s most modern constitutions, which safeguards rights, freedoms and guarantees by establishing extensive mechanisms for their protection and an independent judicial system.

73. Statutory criminal laws provide for and punish all unlawful acts that warrant criminal law protection. For the purposes of attributing criminal liability, Cabo Verdean law provides for the various means of committing an offence, including instigation, complicity and co-perpetration, which consequently are applicable to cases of enforced disappearance.

74. Article 35 (d) of the Criminal Code establishes, in general terms, that acts committed to comply with a legal duty or a legitimate order by an authority are among those that will not be considered unlawful. However, if a subordinate is ordered to commit a criminal offence, the duty of obedience ceases and he or she may legitimately refuse to comply, on the basis of article 39 (2) of the Criminal Code.

75. Although this provision is not directly linked to the offence of enforced disappearance, the country’s criminal laws do provide for the punishment not only of perpetrators but of superiors who authorize or consent to the commission of acts of torture or cruel, inhuman or degrading treatment by their subordinates.

## Article 7

76. With regard to the length of the prison sentence for enforced disappearance, article 51 of the Criminal Code provides for a minimum of 3 months and a maximum of 35 years.

77. As enforced disappearance has been categorized as a serious offence by lawmakers, a decision was taken to strengthen the relevant criminal framework so that sentences at the higher end of the maximum limit provided for by law can be handed down. Anyone who, as part of a widespread or systemic attack against any civilian population, commits acts that give rise to enforced disappearance, in any of its forms, is punished by 15 to 30 years’ imprisonment.

78. The specific section on crimes against the international community does not contain any special rules or requirements for the imposition of a lighter or harsher punishment for these offences. However, although it is not expressly provided for, the general requirements set out in the general section of the Criminal Code concerning the imposition of lighter or harsher punishments, depending on the outcome of the offence, must be taken into account when deciding the specific punishment for a particular perpetrator.

## Article 8

79. With regard to the grounds for discharging criminal liability, articles 104 and 108 of the Criminal Code were amended in 2021 to comply with the provisions of the above-mentioned international instruments by which Cabo Verde is bound. Despite these amendments, the founding principles of the rule of law have been upheld by enshrining the rule that serious offences, such as torture, cruel, degrading and inhuman treatment, sexual offences against minors under the age of 16 years, slavery, trafficking in persons, trafficking in human organs and, implicitly, enforced disappearance, are excluded from the scope of pardons.

80. Minor amendments have also been made to the suspension and interruption of the statute of limitations, notably to take account of the introduction of default judgments.

81. Similarly, article 108 (1) of the Criminal Code stipulates that war crimes, genocide, crimes against humanity, torture, cruel, degrading and inhuman treatment and intentional crimes against life are not subject to any statute of limitations.

82. This provision, which has been incorporated into the national legal order, establishes that there is no statute of limitations for the offence of enforced disappearance; consequently, there is no time limit for instituting proceedings.

83. Given that the offence of enforced disappearance is a public offence, criminal action is not dependent on any intervention by the plaintiff or the injured party; it is sufficient for the Public Prosecution Service to become aware of the offence, by any means, for it to initiate proceedings.

84. As far as the statute of limitations is concerned, the law stipulates that sentences of more than 10 years expire if not served within a period of 20 years (art. 113 (1) (a)). Consequently, given that the offence of enforced disappearance is punishable by 15 to 20 years' imprisonment, the maximum period is applied, namely 20 years.

85. Furthermore, the law stipulates that the statute of limitations for a sentence or preventive measure is paused until such time as it can be enforced, and that each time circumstances arise that interrupt the period of the statute of limitations, the period restarts.

## Article 9

86. In Cabo Verde, territorial jurisdiction in criminal matters is generally defined on the basis of the location where the criminal offence was committed. The Code of Criminal Procedure sets out the rules for determining which court has jurisdiction to hear a given case.

87. Through the "openness" clause in article 211 (2) of the Constitution, Cabo Verde accepts the jurisdiction of international courts established through international treaties, conventions, or agreements by which the country is bound, in accordance with the respective rules of jurisdiction and procedure.

88. The Code of Criminal Procedure is applicable throughout Cabo Verde and beyond, within the limits defined by international conventions applicable to Cabo Verde and agreements signed in the field of judicial cooperation, under the terms of article 28 of the Code of Criminal Procedure.

89. Similarly, article 3 of the Criminal Code states that, unless otherwise provided by international agreement, Cabo Verdean law applies to acts committed on Cabo Verdean territory or on board ships or aircraft registered in Cabo Verde or flying the Cabo Verdean flag, irrespective of the nationality of the perpetrator.

90. On the other hand, territorial jurisdiction in respect of the offence of enforced disappearance is regulated by article 4 (1) (a), which extends the scope of application of Cabo Verdean law to offences committed outside the territory of Cabo Verde that are regulated by articles 243 to 267 and 268-A to 272, unless otherwise provided by an international convention to which Cabo Verde is a Party.

91. Cabo Verdean law is also applicable in cases where the offence of disappearance is committed by or against a national of Cabo Verde, pursuant to article 4 (1) (c) and (d) of the Criminal Code.

92. The country's legal and constitutional framework is in line with international best practice in extradition matters. The position of Cabo Verde, as a country that strives uncompromisingly to defend the dignity of the human person and to safeguard the fundamental rights of its nationals and of foreign nationals residing in the country, is one of conditional acceptance of extradition requests.

93. Under the Constitution, extradition is always refused when the request is based on political, ethnic or religious grounds or relates to crimes of opinion, when the offence carries the death penalty in the requesting State, or when the extradited person is recognized as being at risk of torture or inhuman, degrading or cruel treatment.

94. Apart from these constitutional restrictions, there are no other legal limits preventing the extradition of a person who has committed the offence of enforced disappearance.

95. Furthermore, as a member of the International Criminal Court, Cabo Verde is obliged to respect the Court's fundamental principles, including international cooperation in the identification, arrest, extradition and punishment of persons responsible for crimes against humanity.

96. Under the international principles by which Cabo Verde is bound under international treaties, conventions and agreements, and in accordance with the rules and principles governing international judicial cooperation in criminal matters, as set out in Act No. 6/VIII/2011 of 29 August, extradition and other forms of international judicial cooperation guarantee jurisdiction over acts of enforced disappearance in order to prosecute perpetrators and prevent impunity.

97. For the purposes of requesting active or passive judicial cooperation, the law governing this type of procedure stipulates that genocide, crimes against humanity, war crimes and serious offences under international conventions, including those to which Cabo Verde is not a Party, are not considered to be political in nature and are therefore not among the situations that might give rise to a refusal of a request for judicial cooperation (art. 7 (2) (a) of Act No. 6/VIII/2011 of 29 August).

## Article 10

98. The legal framework in force in Cabo Verde provides the basis for the Public Prosecution Service to bring criminal proceedings, as the body entitled to do so, subject to the conditions and restrictions imposed by law.

99. The law confers powers on the Public Prosecution Service, including responsibility for receiving complaints and deciding on the relevant course of action, such as opening an investigation.

100. Custody is a period of deprivation of liberty lasting a maximum of 48 hours for one of the following purposes: to bring the detainee before a court for urgent proceedings; to ensure the detainee's appearance before the competent judge for an initial hearing or the application of coercive measures; to ensure the immediate appearance of the detainee before the judicial authorities for the purposes of legal proceedings; to inform the detainee of a conviction; or to ensure the enforcement of a prison sentence or security measure.

101. Under the terms of the law governing forms of international judicial cooperation in criminal matters, at the request of a foreign State, criminal proceedings can be instituted or conducted in Cabo Verde in respect of acts committed outside Cabo Verdean territory.

102. Persons under investigation are guaranteed the right to access to justice and the right to be assisted by a lawyer, as well as the right to request consular assistance from their State of nationality at any time and without restrictions.

103. Foreign nationals who are arrested or detained in Cabo Verde are entitled to consular assistance from their country of origin. Embassies or consulates can provide various types of

assistance, including consular visits, contact with family members, information on local legislation and medical assistance, as necessary and in accordance with Cabo Verdean law.

## **Article 11**

104. The Constitution guarantees the principle of presumption of innocence, insofar as it provides, in article 35 (1), that all accused persons are presumed innocent until the sentence is final and no further appeals are possible and that they must be tried within the shortest time possible while ensuring that all the guarantees accompanying their right to a defence are upheld.

105. Under the terms of article 210 (1) of the Constitution, justice is dispensed in the name of the people by the courts and non-judicial dispute resolution bodies. In the same spirit, article 217 (1) confers on criminal trial courts jurisdiction to hear all cases not assigned by law to another court.

106. Legal safeguards, including the assistance of a lawyer, the right of access to justice and the right to a fair trial, are guaranteed for all persons who have committed an offence on national territory and who are tried by Cabo Verdean courts.

107. The rule of territorial jurisdiction in force in the domestic legal order determines that the Code of Criminal Procedure is applicable throughout the territory of Cabo Verde and beyond, within the limits defined by international conventions applicable in Cabo Verde and beyond and by agreements signed in the field of judicial cooperation.

108. The Public Prosecution Service has jurisdiction to investigate offences of enforced disappearance, unless exclusive jurisdiction is delegated to the criminal investigation police owing to the offence's transnational dimension, which almost always requires international cooperation, as stipulated in article 9 of the Criminal Investigation Act, approved by Act No. 30/VII/2008 of 21 June.

109. Under article 31 of the Code of Criminal Procedure, only the courts are empowered to rule on cases and impose sanctions and security measures.

110. Military authorities do not have the power to adjudicate offences of enforced disappearance or any other type of offence except in cases where the suspected perpetrator is a military officer.

## **Article 12**

111. The offence of enforced disappearance is one of a series of offences of a public nature, which means that criminal proceedings can be initiated without a complaint having been made and that an investigation is launched as soon as the Public Prosecution Service becomes aware of the offence, by whatever means.

112. It is mandatory to report offences to the Public Prosecution Service if the initiation of criminal proceedings does not require the filing of a complaint, the participation of the victim or the opening of a private prosecution, pursuant to article 60 (1) and (3) of the Code of Criminal Procedure.

113. Article 60 (5) specifies that complaints can be lodged orally, in writing or by any other means of communication and must contain, as far as possible, a brief statement of the facts and any details of the circumstances in which they occurred that might be of interest in the criminal proceedings, the identity of the perpetrators and other relevant information pertaining to them, the identity of the injured parties, and the name, address and other relevant details of actual or potential witnesses.

114. There is also a free 24-hour hotline for people wishing to lodge a complaint or report any situation that might be linked to the offence of enforced disappearance.

115. The Witness Protection Act, approved by Act No. 81/VI/2005 of 12 September, is aimed at protecting witnesses whose lives or physical integrity are at risk as a result of their testimony in criminal proceedings. The Act establishes administrative protection and support

measures, which can include the issuance of documents establishing a new identity and special arrangements for security.

116. Pursuant to the Act, and in order to preserve the safety and integrity of informants or witnesses to a crime, in cases where there is a need for protection and there is evidence of the commission of an offence punishable by a sentence of more than 3 years, videoconferencing can be used, including with image and/or voice distortion, to avoid the witness being recognized.

117. To this end, witnesses and their spouse, children, parents, siblings and other close family members can, on an exceptional basis, benefit from special security arrangements during the proceedings and, in some cases, even after they have ended, provided that all the following conditions are met: (a) the testimony or statements relate to the offences referred to in article 16; (b) there is a serious and concrete risk to life, physical or mental integrity or liberty; and (c) the testimony or statements are presumed or proven to be essential to uncovering the truth.

118. The criminal investigation police are investigating two cases of disappearances in Praia involving four people – three children and an adult.

## Article 13

119. In line with the information provided above in relation to article 9, the offence of enforced disappearance is not included in the list of offences for which extradition is not permitted. It is therefore not one of the cases in which extradition is not authorized pursuant to the application of article 7 (2) (a) of Act No. 6/VIII/2011 of 29 August.

120. Furthermore, paragraph 1 of the above-mentioned Act reinforces the principle of the precedence of conventions, treaties and protocols by which Cabo Verde is bound and, therefore, even if there were no law allowing extradition in relevant cases, the rules set out in the International Convention for the Protection of All Persons from Enforced Disappearance, which is part of the domestic legal order, could be applied to any specific case of extradition for the offence of enforced disappearance.

121. In addition to the general rules set out in the Convention, Cabo Verde has signed several bilateral judicial cooperation agreements with third countries, thereby broadening the scope of its cooperation with other countries to enable the active or passive extradition of persons who have committed various types of offences.

122. The application of the rules of judicial cooperation in criminal matters is subject to the protection of the interests of sovereignty, security, public order and other national interests as defined in the Constitution.

123. Consequently, there are a number of situations in which refusal of an extradition request may be justified, first and foremost when the act to which it relates corresponds to an offence that carries the death penalty in the requesting State or when extradition might result in irreversible harm to the integrity of the individual.

124. Within the framework of the powers to prosecute extradition requests, the Act on Judicial Cooperation in Criminal Matters specifies that extradition is an emergency procedure and comprises two stages, namely, administrative and judicial.

125. In the administrative stage, the Minister of Justice assesses the extradition request and, taking into account the guarantees to be respected, decides whether the request can be granted or whether it should be rejected for reasons of policy, expediency or practicality.

126. Pursuant to article 46 (3) of the aforementioned Act on Judicial Cooperation in Criminal Matters, the judicial stage falls under the exclusive jurisdiction of the Supreme Court and involves deciding, after hearing the interested party, whether to grant extradition on the basis that the formal and substantive conditions have been met, without making any pronouncement in respect of the evidence and charges against the extradited person.

## Articles 14 and 15

127. In addition to multilateral legal instruments, Cabo Verde is bound by several bilateral international judicial cooperation instruments which are not specifically aimed at the offence of enforced disappearance but have a broader scope, encompassing various types of offences.

128. In this respect, the following agreements should be noted: Agreement on legal and judicial cooperation in civil and criminal matters between the Republic of Cabo Verde and the Republic of Portugal (resolution No. 98/VI/2004); Agreement on judicial cooperation between the Republic of Cabo Verde and the Republic of Senegal (Decree No. 7/2000 of 2 May); Agreement on the transfer of sentenced persons between the Republic of Cabo Verde and the Kingdom of Spain (resolution No. 68/VII/2008 of 14 April); Agreement on mutual assistance in criminal matters between the Republic of Cabo Verde and the Kingdom of Spain (resolution No. 70/VII/2008 of 14 April); and Agreement between the Government of the Republic of Cabo Verde and the Government of the United States of America on the surrender of persons to international tribunals (resolution No. 111/VI/2004 of 15 November).

## Article 16

129. The Constitution, which safeguards human dignity and respect for rights, freedoms and guarantees, ensures the defence of the freedom of Cabo Verdean and foreign nationals in the national territory and the protection of their physical integrity and therefore formally prohibits extradition in cases where it is requested on political, ethnic or religious grounds or in connection with crimes of opinion; for an offence that carries the death penalty in the requesting State; or when there is reason to believe that the extradited person might be subjected to torture or inhuman, degrading or cruel treatment.

130. Under the Act on Judicial Cooperation in Criminal Matters, the Supreme Court has jurisdiction over extradition proceedings.

131. The procedure falls within the jurisdiction of the Criminal Division, and only the final decision can be appealed, with the Supreme Court sitting in plenary.

132. Appeals against expulsion have a suspensive effect.

133. The legal framework in force in Cabo Verde sets out the criteria and conditions that must be met in order to forcibly remove a foreign national from the national territory.

134. To give concrete form to this legal instruction, lawmakers determined, in article 75 of Act No. 27/X/2023 of 8 May, amending Act No. 66/VIII/2014 of 17 June, which regulates entry, stay, exit and expulsion for foreign nationals in Cabo Verdean territory, that the coercive removal of foreign nationals from the national territory can be decided by an administrative or judicial authority.

135. For administrative decisions, the Director of the Foreign Nationals and Borders Department has jurisdiction, and for judicial decisions, the courts have jurisdiction, according to article 76 of the Act.

136. It should be noted that administrative and judicial expulsion decisions are both subject to judicial appeal and that, as a legal requirement, a copy of the expulsion decision must be sent to the National Commission for Human Rights and Citizenship, which is responsible for verifying that the fundamental rights of the person being expelled are upheld.

137. Article 89 (5) of the Act stipulates that during the expulsion procedure, the specific needs of vulnerable persons must be taken into account, including for minors, persons with disabilities, older persons, pregnant women and victims of torture, rape or other serious forms of psychological, physical or sexual violence.

138. Law enforcement officials have taken several initial or in-service courses in a range of disciplines that have been organized by the National Commission for Human Rights and Citizenship to enhance and consolidate their knowledge and awareness of human rights as they relate to their duties, with a particular emphasis on constitutional law, human rights, criminal law and procedure and ethics, including professional ethics.

## Articles 17 and 18

139. Respect for freedom, as a corollary of the principle of human dignity, enjoys broad legal protection in the legal and constitutional system of Cabo Verde. In order to guarantee this fundamental right, the Constitution enshrines the right of everyone to liberty and personal security and prohibits anyone from being fully or partially deprived of their liberty, unless convicted by a court for committing acts punishable by imprisonment or in the event of the application of a security measure provided for by law (art. 30 of the Constitution).

140. The Constitution sets out the following exceptions to this rule: cases of arrest in flagrante delicto; and detention or pretrial detention on the basis of solid evidence of the commission of an offence punishable by a prison sentence of more than 3 years, when other procedural precautionary measures are deemed insufficient or inadequate.

141. Custody is a period of deprivation of liberty lasting a maximum of 48 hours, with the aim of bringing the detainee before the courts, informing the detainee of a conviction or ensuring the enforcement of a prison sentence or security measure.

142. Each island in the country has police units equipped with detention cells. There are also three central prisons – Praia, São Vicente and Sal – and two regional prisons – Fogo and Santo Antão – where detainees who are awaiting trial are held separately from convicted prisoners.

143. The Act stipulates that an arrest other than in circumstances of flagrante delicto can be carried out only on the orders of a judge or, in exceptional cases, by the public prosecutor, for example in the context of international judicial cooperation in criminal matters.

144. On the other hand, in exceptional cases, the Act provides for the criminal police to make an arrest not in flagrante delicto when the offence carries a penalty of more than 3 years, when there are serious indications that the person is preparing to evade justice and in cases where, due to the urgency of the situation, it is not possible for the justice system to intervene; in the latter case, the judicial authority must uphold the arrest as soon as possible.

145. Safeguards for the legality of detention are provided for in the Constitution, which gives detainees the right to be immediately informed, in a clear and comprehensible manner, of the reasons for their arrest or detention and of their constitutional and legal rights, and the right to contact a lawyer, either directly or through their family or a trusted person (art. 30 (4) of the Act on the Protection of Human Rights and Fundamental Freedoms).

146. Detainees are also guaranteed the right to know the identity of the person responsible for their arrest or detention and interrogation (art. 30 (5) of the Constitution), as well as the right to contact their family members and inform them of the reasons for their detention.

147. The Ombudsman's Office and the National Commission for Human Rights and Citizenship, as the country's human rights institutions, have a broad mandate and, within the scope of their powers and competences, conduct regular visits to places where people are deprived of their liberty – prisons, police stations, centres for children in conflict with the law, facilities for persons with mental illness, judicial centres for persons with mental illness, centres for children in conflict with the law, institutions for persons with mental illness, criminal investigation police premises, and temporary holding facilities at international airports – and draw up reports and issue recommendations on measures to be adopted, with the aim of preventing acts of torture and cruel, inhuman or degrading treatment.

148. Still on the subject of defending human rights, it is important to emphasize access to justice by guaranteeing legal aid for citizens who need it, continuing to implement the national human rights plan and emphasizing the themes of human rights and citizenship education in primary and secondary schools, universities, teacher training, entry requirements for public administration and training for police and prison officers, ensuring that their actions are aligned with international and regional human rights standards.

149. The Act establishing the structure, organization and rules of procedure of the Ministry of Justice was amended by Decree-Law No. 77/2021 of 10 November, creating an Inspection Service for prisons and socioeducational centres, as a central service of the Ministry of Justice responsible for inspecting the operation of these establishments to assess conformity with

legal provisions, the quality of the services provided, the conditions of detention and the arrangements for the social reintegration for prisoners and detained minors.

150. In addition to legal measures, legislation has been adopted regulating the use of remote or electronic means of monitoring persons awaiting trial and convicted prisoners. Electronic monitoring, including remote monitoring techniques, can enhance the enforcement of a non-custodial coercive measure less severe than pretrial detention and makes it possible to replace prison sentences with house arrest when the court concludes that this measure adequately and sufficiently fulfils the objectives of the punishment.

## **Articles 20 and 22**

151. In 2018, the country approved Legislative Decree No. 6/2018 of 31 December, which establishes the legal framework for the enforcement of punishments.

152. For the purposes of article 18 (3) of Act No. 81/VI/2005, the Bar Association guarantees the urgency and confidentiality of the process of appointing a lawyer and observing, with the necessary adaptations, the confidentiality rules set out in article 6 of Regulatory Decree No. 2/2006 of 13 February, which governs the application of witness protection measures.

153. In addition, for the purposes of article 21 (1) (e) of the same Act, the judicial authority orders the Director General of Prison Services to apply a regime that allows the witness to be isolated from other prisoners and transported in a different vehicle.

154. For children or adolescents, the judge orders temporary protection to be provided by any public or private institution that has signed a cooperation agreement with the State and is suited to this purpose.

155. Article 94-D of the Code of Criminal Procedure stipulates that an adequate level of protection must be provided to the victim and, where applicable, to the family members, as listed in the relevant chapter, with a particular focus on security and the safeguarding of privacy, whenever the competent authorities consider that there is a serious threat of reprisals or revictimization or strong indications that the victim's private life might be disturbed.

## **Article 21**

156. Any placement in detention or pretrial detention also presupposes the prior existence of an enforceable judicial order, which must set out the relevant measure and the judicial authority, body or criminal police authority that ordered it.

157. Penalties involving deprivation of liberty or security measures provided for in criminal legislation can be imposed only by a court order, in accordance with the powers laid down in legislation on the organization of justice.

158. The sentence enforcement courts defined in article 17 are responsible for enforcing criminal judgments imposing a custodial sentence or security measure, under the conditions set out in the country's legislation on the organization of justice and in the Code.

159. Persons sentenced to life imprisonment are admitted to prison only on the basis of an order issued by a judge from the court that handed down the decision, accompanied by the corresponding judicial enforcement order.

160. When a convicted person has served his or her prison sentence or is granted parole, he or she is released on the basis of an order issued by the competent judge, under the terms of the law and the Code, even if the decision was made by another authority.

161. In urgent cases, a convicted prisoner's release can be ordered by any means of communication duly authenticated by the judge or another competent judicial authority, under the terms of the law and the Code, and the corresponding order is subsequently issued.

162. The prison governor must request the order referred to in paragraph 1 at least one month before the end of the prison sentence and check with the competent judicial office that

it has been issued in good time. A disciplinary, civil or criminal penalty can be imposed should the prisoner not be released within the relevant time frame.

## Article 23

163. The second National Action Plan for Human Rights and Citizenship, which covered the period from 2017 to 2022, was progressively implemented. The coronavirus disease (COVID-19) pandemic affected some of the measures set out in the Plan, but an overall assessment of the outcome of the Plan, intended to inform the development of the third iteration, is under way.

164. Thanks to international cooperation, they have also regularly benefited from human rights training, both in Switzerland and abroad. In addition, prison guards have received training on humanization and human rights, as well as social reintegration, in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

165. Managerial and operational personnel of the National Police, in particular personnel from the Central Criminal Investigation Department, the Foreign Nationals and Borders Department and the maritime police, have taken part in training and capacity-building.

## Articles 24 and 25

166. Cabo Verde has made a number of efforts in this respect, including by drawing up the first National Action Plan to Combat Trafficking in Persons 2018–2021, adopted in accordance with resolution No. 40/2018, published in Official Gazette No. 27 of 9 May. The second iteration of the Plan is currently being drafted.

167. The country has ratified important international instruments and developed the National Strategy and the National Action Plan to Combat Trafficking in Persons (2023–2026) to meet the requirements of the West African Response to Trafficking Project implemented by the International Centre for Migration Policy Development.

168. A fourth amendment to the Criminal Code was made in 2021 pursuant to Act No. 117/IX/2021 of 11 February, under which trafficking in human organs was included in article 131-B of the Code. New offences relating to child pornography, including sexting involving children, sex tourism and child prostitution, have also been defined, bringing the relevant provisions of the Criminal Code into line with those of the Convention on the Rights of the Child.

## V. Conclusion

169. Cabo Verde has established itself as a State that has fulfilled its international commitments and is committed to respecting the aims of the United Nations in the field of human rights, particularly with regard to reporting.

170. The present report describes the actions taken by the Government to prevent situations that could compromise the security and physical integrity of the human person, in an effort to comply with the provisions of the Convention, and sets out the main results achieved with regard to respecting and protecting the rights of all persons.

171. Although not exhaustive, it illustrates the State's commitment to implementing the provisions of the International Convention for the Protection of All Persons from Enforced Disappearance and reflects the Government's efforts to progressively and continuously strengthen legislation aimed at combating the main causes of enforced disappearance, thereby consolidating the country's human rights framework.