



National Commission for Human Rights and Citizenship of the Republic of Cabo Verde

Parallel Report on the implementation of the United Nations
Convention on the Protection of the Rights of All Migrant Workers and
Members of Their Families

August 2018

INTRODUCTION

1. Cabo Verde ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in 1997 and entered into force in the Cabo Verdean legal framework on July 1, 2003.
2. In recent decades, Cabo Verde has experienced a rapid transformation in terms of migration, from a traditionally emigration country to a country of immigration, as a result of the acceleration of the policy instruments adjustment process aimed at the reception and integration of the immigrant population.
3. Since its ratification, the State of Cabo Verde has never submitted any report on the implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
4. In the context of the submission by the State of Cabo Verde at the end of July 2018 of the combined initial to third Report on the implementation of the Convention, the National Commission for Human Rights and Citizenship (CNDHC) hereby submits its report on the implementation of the Convention in Cabo Verde to the UN Committee on Migrant Workers to be considered at the 29th Session of the Committee to be held from September 3 to 12.

Legislation and enforcement

5. The Constitution of the Republic of Cabo Verde (CRCV), the fundamental law of the State, establishes its supremacy over the laws and other normative acts of the State, including treaties and international agreements.
6. With respect to individual rights, the Fundamental Law guarantees respect for the dignity of the human person and recognizes the inviolability and inalienability of human rights, and also enshrining the equality of all citizens before the law, regardless of origin or economic situation, race, sex, religion, political or ideological convictions and social status, ensuring that all citizens enjoy the full exercise of fundamental freedoms (Article 24).
7. Law No. 66 / VIII / 2014 of July 17, which establishes the Legal System for the entry, stay, exit and expulsion of foreigners from the Cabo Verdean territory as well as their legal situation, the Law No. 131 / V / 2001 of January 22, which defines the Basis of Social Protection System and Decree-Law No. 5/2004 of February 16, amended by Decree-Law No. 50/2009 of November 30, which

establishes the basis for application of the Social Protection System of Employees, define and strengthen the protection framework for immigrants in Cabo Verde.

Comprehensive policy and strategy

8. The Cabo Verdean State has developed complementary actions and policies in line with the spirit and the letter of the Convention, namely the Immigrant's Guide, the Manual of Procedures, among others. The National Immigration Strategy approved by Resolution No. 3/2012 of January 23, and the Action Plan of this Strategy is one of the major policy measures adopted on immigration policies.

Institutional Framework, coordination

9. In 2011, in order to better coordinate relations with immigrants, the Government created the Immigration Coordination Unit (UCI) exclusively dedicated to the coordination of immigration, a unit today transformed into a Directorate General for Immigration (DGI) under the supervision of the Ministry of Family and Social Inclusion, which has made a good bridge in the relationship between public entities and immigrants.
10. Despite the availability to collaboration with the immigrants from Africa, Asia, Europe and America, it is the Africans who have had the most deficiencies and difficulties in regularization processes, which contributed greatly to the creation of the African Communities Platform (PCA) which brings together most African immigrants associations, a platform that has worked in close consultation and collaboration with the Directorate General of Immigration.
11. For the normal functioning of this Platform, the Government has contributed to the creation of logistical conditions for the adequate administrative operation granting a financial allowance for this purpose. This assistance has facilitated the concertation and strategic and operational coordination of multiple initiatives, minimizing many of the problems faced by immigrants.

Migration statistics

12. The Directorate of Foreigners and Borders (DEF) is the institution which has greater data quantity on immigrants in Cabo Verde. However, despite the progress made in the operation of its services, data organization challenges remain, and access to data is very limited. There is no a systematized and ready database to be used and available for free research.
13. According to data from the 2010 Census, there are 14.373 immigrants residing in the country.

14. According to DEF, in 2017, 474 applications for Residence Permit were received, with the majority from Guinea Bissau citizens (113), Portugal (77) and Senegal (72), with a percentage incidence of around 23.8%, 16.2% and 15.2%, respectively.

Independent monitoring

15. The General Directorate of Immigration - DGI is the governmental structure responsible for the follow-up, monitoring and evaluation of the National Immigration Strategy created by Resolution No. 3/2012 of January 23.
16. The National Commission for Human Rights and Citizenship (CNDHC), an institution with the mandate to promote and protect human rights, monitors the implementation of the Convention and respect for the rights of migrant workers in the country.

Training and dissemination of the Convention

17. Immigrant workers and members of their families have been regularly informed about their rights and obligations under national law, in line with the terms of this Convention. The Cabo Verdean authorities have circulated useful information to immigrants through meetings with interested immigrant communities, through publications and various communication media. However, this information does not reach all immigrant communities because of the limitations and constraints inherent to the preparation and availability of immigrants for this purpose.
18. There have been regular information and training sessions for civil servants in order to understand the legislation application on immigration. However, in the interpretation and application of these legal provisions, it is noticeable inappropriate attitudes of many professionals, culminating in some situations in excesses of acts or abuses of authority, especially when the immigrant is not aware of the legislation or invokes it at the border posts.
19. Despite the actions taken, the Convention needs more and better dissemination to all Departments of the State, especially those somehow deal with issues related to immigration.
20. The dissemination of the Convention among immigrants and citizens with seeking for emigration is also of paramount importance, as it will contribute to better preparation for the emigration process, to better relate with the authorities, but also to the mitigation of many situations of conflict between migrants and the authorities of the host States.

Non-discrimination

21. Institutionalized or legalized discrimination does not exist and the State has made efforts to prevent this from happening. However, in practice, there are discriminatory attitudes from some State administration agents, without those facts being investigated and the practitioners of those acts being properly held accountable. The Diagnostic Study on the "Identification of the needs of immigrants in the process of social integration in Cabo Verde", carried out by the DGI, indicates that 35% of the immigrants, mainly from ECOWAS, considered themselves to have experienced discrimination.

Right to an effective remedy

22. The State guarantees to all foreign nationals access to legal assistance in the context of the fulfillment of their fundamental rights, regardless of his/her legal situation in the country, in accordance with the law.

Managing Transit Borders and Migrants

23. The State of Cabo Verde has fulfilled its human rights obligations at border posts, including free legal assistance in situations of inability to defend themselves before the judicial authorities. However, there have been reports of inadequate behavior from some border police officers in relation to citizens from some countries seeking to enter the country using inappropriate and unworthy language.
24. In the case of immigrants who have remained in an irregular situation in Cabo Verde and who wish to leave the country, in many cases they see this possibility banned and miss the trip due to the legal imposition to pay the fines for having been in the country in an irregular situation. This payment is not accepted at border posts due to the imperative of compliance with certain procedures and administrative formalities. In many times, friends and acquaintances paid to ensure their return to the country of origin.
25. However, if the immigrant is unable to pay the amount stipulated, he/she may request a safe conduct to allow him/her to return.

Labour exploitation and other forms of maltreatment

26. The labour force of migrant workers is mainly concentrated in sectors such as domestic private security, civil construction and domestic work, services which have in many cases been requested by private companies and natural persons, inasmuch as these workers accept wages below the national minimum or because

they are not able to demand for guarantee of social protection and social security services.

27. There are no records of trafficking in person for forced labour purposes, but there have been reports of cases of sexual exploitation of immigrant women on the islands of Sal and Boavista, women from West African countries. The contours of these practices are not well known, but the media have reported episodes of this reality in the tourist areas of these islands.

Due process, detention and equality before the courts

28. Arrests are usually made under appropriate conditions and facilities of the national police. However, there are allegations and reports of threats and intimidation when the detainee complains of certain rights. There are also reports of situations of people who were prevented from entering the country, without adequate explanation of the reasons for the impediment to entry into the Cabo Verdean territory, due to communicative linguistic limitations. There are also reports of cases of people who are unaware of the Cabo Verdean national language and who have been detained at the border posts and then repatriated. In many cases, the justification given for detention is different from that in the documents which formalized the detention.

Expulsion

29. The expulsion process of a foreign nationals who is ordered to be expelled from the country is urgent and he /she has a very short time to leave the country.
30. There has been no monitoring of specific expulsion procedures, which has increased the fragility of the persons concerned as they are constantly evading the authorities in order to avoid expulsion.
31. Often, the expulsion order is difficult to enforce since the expelled persons, who must pay for transportation, lack the means to ensure transportation to the State of origin.

Consular Assistance

32. The rights of migrant workers and their families to the protection and assistance of the consular or diplomatic authorities of their State of origin or of the State representing them are not known by a significant proportion of the concerned people and the State authorities generally do not inform them of these rights, and do not always facilitate access to this resource.

Remuneration and working conditions

33. The rights of migrant workers are safeguarded in legislation, and there are no legally established discrimination in this area. However, the irregularity situation of many workers leads to many employers failing to fulfill their legal and contractual obligations.

34. Due to legal and normative imperatives, Labour Inspectors are obliged to report to the authorities cases of migrant workers in irregular labour situation, which in practice has not materialized.

Freedom to join and participate in union meetings

35. There is no restriction on migrant workers in this regard. They enjoy the same rights as Cabo Verdean citizens.

Social Security

36. Foreign workers who work in Cabo Verde are treated as Cabo Verdean workers for social security purposes if there is a reciprocity of rights in their countries. Workers covered by the social security system will be compulsorily registered, and in the case of immigrants the registration in social security is a fundamental requirement for obtaining a residence permit. Immigrant workers from the public administration service are always registered.

37. Some private companies do not register their workers, including migrant workers, which prevents them from fully enjoying some of their fundamental rights.

Medical care

38. In most cases, migrant workers and their families have benefited of the emergency care necessary to preserve their lives or prevent damage to their health, on an equal basis with Cabo Verdean citizens. However, there are episodes of refusal to provide care and the requirement to present documents that certain immigrants or their relatives are unable to comply with.

Education

39. All children of migrant workers enjoy the same rights in access to pre-school and public school education, under the same conditions as nationals. There are no constraints at this level.

Transfer of earnings and savings

40. There has been no restriction on the transfer of savings, the transfer of goods and objects from immigrants to their countries of origin or to other destinations. In general terms, the mechanisms and processes for the transfer of earnings and savings are regulated by specific legislation, without discrimination of migrants.

41. Conditions have been created aimed at facilitating the sending of remittances from emigrants.

Before departure and right to be informed

42. Migrant workers are generally informed by their States of origin or by employers' States their rights and their obligations. What happens in most cases is that the candidates for emigration do not declare their real migratory goals and rarely request the appropriate information.

Right to form trade unions

43. The State of Cabo Verde does not restrict any initiative by immigrants to form or join trade union organizations.

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

44. The State of Cabo Verde has created conditions and promoted procedures to facilitate the exercise of the right to vote and to be elected to all its citizens, regardless of the State in which they reside. Migrant workers who meet the requirements in the law, may exercise the right to vote and to be elected.

Family Reunification

45. The family reunification process is regulated and guaranteed in national legislation (Article 54 of Law 66 / VIII / 2014 of July 17, as amended by Law 80 / VIII / 2015, of January 7) to relatives of foreign nationals with a valid residence permit, and who have lived with or depend on him / her in another country, regardless of whether the family ties are prior or subsequent to the entry in Cabo Verde. However, many immigrants in condition of illegality, due to the non-obtaining of residence permit, has affected the desire to carry out family reunification.

Exemption from import and export duties in respect of personal and household goods

46. Migrants in a regulated situation in the State of employment shall benefit of exemption from import and export duties e taxes in respect of personal and household goods.

Work and residence permits

47. Despite the many measures taken by the Government to facilitate the regularization of immigrants, including legislative changes and the adoption of extraordinary measures for regularization, this remains a problem. This process is still very bureaucratic and constitutes one of the biggest constraints faced by

immigrants who choose the archipelago as a destination of residence and work. In many situations, immigrants are subjected to inadequate and disrespectful treatment by emigration and border authorities. There are reports of cases in which, once all the required documents have been met, there has been some delays in the progress of the regularization processes in the DEF, but this service has taken the necessary steps to deal with this constraint.

Children in situations of international migration

48. In Cabo Verde there is an emerging phenomenon of street children, especially in the capital Praia, where immigrant merchants do not have permanent custody of their children.
49. The situation faced by many immigrant children, whose caregivers do not always fully assume their parental responsibilities, is a disturbing reality. It is not rare to see cases of neglect and even abuse, because many of their caregivers assume this role before the father or mother of the children, more for the financial support they receive from abroad than for the genuine will to care. It is advisable to carry out specialized studies to help to have a better knowledge of this little-known reality in society, and thus better able to overcome the evils that victimize these children.

Return and integration

50. The General Directorate of Immigration - DGI has created a Project called "Voluntary Return Project" which aims to guarantee the voluntary return of foreign citizens to their countries of origin. According to information obtained from the immigrant community, particularly the African community, the return of some foreign nationals to their country of origin has taken place within the framework of this project.
51. According to information provided by some immigrants, there have been situations of arbitrary repatriation of undocumented immigrants, with no information or agreement with the States of origin of many immigrants.

The role of CNDHC

52. The CNDHC is the institution with the mandate to protect and promote Human Rights, Citizenship and International Law in Cabo Verde, also acting as an advisory body and to monitor public policies in these areas.
53. As part of its attribution, it monitors the implementation of human rights treaties and may issue recommendations and opinions with a view to adopting measures for the implementation of the Convention provisions.

54. With regard to the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the CNDHC, in partnership with the DGI, published the Convention in 2015 and has used this publication for actions to promote its distribution and addressing its content to differentiated target audiences. In addition, in all activities and campaigns promoted by the CNDHC on human rights in general, the aim is to include reference to immigrants as human rights subjects.
55. The CNDHC has been raising awareness among the Government for the ratification of the Convention relating to the Status of Refugees and the regulation of the Law establishing the foundations of the legal status of refugees and asylum, as these measures will greatly contribute to immigrants to enjoy and exercise their rights better.
56. The Second National Plan of Action for Human Rights and Citizenship provides for a set of actions related to the rights of immigrants, including campaigns against racism and xenophobia, the adoption of an anti-discrimination law that protects immigrants and the promotion of training actions aimed at the integration of immigrants.
57. The CNDHC has received some complaints from immigrants about alleged violations of their rights, a significant percentage of which relates to voluntary return, asylum applications, abuse of authority and issues related to refusal to enter national territory.