

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review: *Fourth Cycle, 44th Session (2023)*

CABO VERDE

I. BACKGROUND INFORMATION

Cabo Verde is a 10-island archipelago off West Africa's Atlantic coast, located along the routes to Europe (especially Spain) from Western Africa. Due to its geographical situation, it is considered a transit country for mixed movements of people. There is a lack of data on the real number of migrants, refugees and asylum-seekers, and stateless persons in Cabo Verde.

UNHCR covers Cabo Verde from its Multi-Country Office (MCO) Senegal, based in Dakar. A total of eight countries are under its responsibility (Benin, Cabo Verde, The Gambia, Guinea, Guinea-Bissau, Senegal, Sierra Leone and Togo).

Asylum-seekers and refugees

UNHCR would like to note that Cabo Verde has not acceded to the *1951 Convention relating to the Status of Refugees* (the *1951 Convention*) but it is a State Party to the *1967 Protocol* (the *1967 Protocol*) only (accession 9 Jul 1987). Unlike most African countries, Cabo Verde has not ratified the *1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa* (the *OAU Convention*). It does, however, have a national law on asylum. The main national legal instrument with regards to refugees and asylum-seekers is the Law 99. This law defines the legal regime for asylum and refugee status. However, there is no mechanism in place for the determination of refugee status or statelessness or for dealing with the situation of persons in need of international protection. In addition to Law 99, Decree-Law 2/2015 authorizes border authorities to issue a single travel document for foreign citizens, refugees, and stateless persons, at their request, to guarantee means for their exit from the country.

On March 2021, two Syrian asylum-seekers who presented themselves in Cabo Verde referred by the International Organization for Migration (IOM), were recognized as refugees by UNHCR under UNCR's mandate

Statelessness

Cabo Verde is not party to the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*), nor to the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*). According to the available data (as of June 2019) provided by the Cabo Verdean government (based on a census), there were 115 persons at risk of statelessness of concern to UNHCR in Cabo Verde. However, no follow-up has been reported for the management of these cases.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

UNHCR welcomes Cabo Verde's participation in the High-Level Segment on Statelessness (2019) and the concrete pledges made during the annual session of the Executive Committee of the United Nations High Commissioner for Refugees (ExCom). Indeed, to address statelessness by the end of the #IBelong Campaign (2024), the Government of

Cabo Verde committed:

- To accede to the *1954 Convention relating to the Status of Stateless Persons*,
- To accede to the *1961 Convention on the Reduction of Statelessness*.

As those pledges have not yet been implemented, UNHCR strongly encourages the Government of Cabo Verde to continue its efforts to fulfill those commitments in line with the objectives of ECOWAS Abidjan Declaration and the Banjul Plan of Action on eradication of statelessness (2017-2024).

Linked to 3rd cycle UPR recommendation UNHCR welcomes the Cabo Verde High Authority for Immigration requesting UNHCR support during a meeting held in July 2021, to facilitate sessions on the topic of Citizenship, Nationality and Migration: International and regional perspectives and trends. This meeting demonstrated the interest of Cabo Verde High Authority to work closely with UNHCR on refugees and statelessness protection.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Accession to the 1951 Convention relating to the Status of Refugees and the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa

Cabo Verde has acceded to the *1967 Protocol*. However, it has neither acceded to the *1951 Convention* nor the *1969 OAU Convention*. These conventions are important instruments to ensure enjoyment of human rights by refugees. The *1951 Convention* establishes an internationally recognized definition of a refugee and lays out the relevant rights and responsibilities related to refugees. Also, these instruments recognize a number of key rights such as freedom of religion; access to courts; freedom of movement; access to territory; identity documentation; and internationally recognized travel documents.

Recommendation:

UNHCR recommends that the Government of Cabo Verde:

- a) Recommends accession and deposit instruments of accession for the *1951 Convention relating to the Status of Refugees* and the *1969 OAU Convention governing the specific refugee problems in Africa*.

Issue 2: The situation of stateless persons in Cabo Verde

According to the latest available data (as of June 2019) provided by the Cabo Verdean Government (based on a census), there were also 115 persons at risk of statelessness and of concern to UNHCR in Cabo Verde. However, no follow-up was reported for the management of these cases.

Recommendation:

UNHCR recommends that the Government of Cabo Verde:

- a) Investigate and seek solutions for the 115 persons at risk of statelessness identified in the Government's census, in full collaboration with UNHCR to grant necessary protection to these persons; and,
- b) Ensure stateless populations, and those at risk of statelessness, are carefully considered and detailed information on their situation is captured in the next census.

Issue 3: Adoption of a national legal framework and mechanism to protect refugees and asylum-seekers

With no national legislation and no institutional body within the Government taking full responsibility for asylum-seekers and refugees, Cabo Verde does not fully meet its international obligations in the field of refugee protection. While very few asylum applications

seem to be received each year, the actual number of asylum-seekers arriving on the territory is unknown. There is no procedure in place to ensure systematic registration and processing of asylum claims. There is also no information available on the treatment of persons in need of international protection and on effective safeguards against refoulement at the border or from within the territory.

Since UNHCR does not have an established presence in the territory, the ad hoc practice to date for the few asylum-seekers who request protection and assistance is referral by IOM in Cabo Verde to UNHCR MCO Senegal. These cases are evaluated under UNHCR's mandate. Those who are recognized as refugees are not granted a legal status in Cabo Verde. UNHCR can assist to find a durable solution.

Recommendation:

UNHCR recommends that the Government of Cabo Verde:

- a) Establish a national asylum legislation and refugee status determination procedures, and accord legal status to asylum-seekers and recognized refugees.

Issue 4: Accession to the Statelessness Conventions and the Adoption of a National Action Plan against Statelessness

Cabo Verde has not yet begun the process of acceding to the *1954* or *1961 Conventions*.

The *1961 Convention* establishes a range of safeguards to prevent statelessness at birth and later in life, in particular that States shall grant their nationality to children born on the territory if they would otherwise be stateless. The *1954 Convention* is an important instrument to ensure enjoyment of human rights by stateless persons. The *1954 Convention* establishes an internationally recognized status for stateless persons. It also recognizes a number of key rights such as freedom of religion; freedom of association; access to courts; freedom of movement; identity documentation; and internationally recognized travel documents.

Recommendation 1:

UNHCR recommends that the Government of Cabo Verde:

- a) Accelerate the process of accession to the *1954 Convention* and the *1961 Convention* without further delay, and bring its nationality law and procedures in line with these statelessness conventions.

In line with the Conclusions and Recommendations of the Abidjan Declaration and the ECOWAS Plan of Action on Eradication of Statelessness, Cabo Verde has not drafted a National Action Plan on the eradication of statelessness. The official adoption of that Plan will:

1. Improve coordination among the executive and legislative powers in Cabo Verde towards the same goal with a clear definition of resources needed;
2. Show concrete steps for the different administrations, with clear demarcation of responsibilities to reach a goal within a specific period of time; and
3. Improve the capacity of the international community to support the State's efforts by identifying and committing to concrete actions and activities, which will in turn facilitate the mobilization of resources from the international community, academia and private sector, among others.

Recommendation 2:

UNHCR recommends that the Government of Cabo Verde:

- a) Adopt a National Action Plan on the Eradication of Statelessness and ensure its full implementation.

Issue 6: Mixed movements

There is a growing trend of people transiting the country, some of whom may be in need of international protection. In January 2023, there were reports of 92 irregular migrants (2 perished) crossing by sea on the way to Spain from a number of Western Africa countries such as The Gambia, Guinea-Bissau, Mali, Senegal and Sierra Leone and who ended up in Cabo Verde.¹ It is not clear whether these persons rescued at sea, including three women and 15 children, had international protection needs or whether they have been able to approach the Cabo Verde authorities to claim asylum. It is also not clear whether the Government provided asylum to any of these persons. The legal status of those remaining in Cabo Verde is unclear.

Under the 10 Point Plan in Action on refugee protection and mixed movements,² UNHCR is closely following with the Cabo Verde Government authorities to ensure that people on the move who may be in need of international protection (especially victims of trafficking) are provided a protection-sensitive screening upon entry into the territory. There is a need for the Cabo Verde Government, together with UNHCR and IOM, to establish SOPs which provide for reference mechanisms for those persons seeking international protection (especially those with specific needs such as women or children at risk). This is critical to ensure that they can exercise their rights to seek and enjoy asylum.

Recommendations:

UNHCR recommends that the Government of Cabo Verde:

- a) Adopt and implement standard operating procedures (SOPs) on the processing of individuals arriving in Cabo Verde, including mechanisms for screening these arrivals to assess their potential protection needs or referring them via IOM to UNHCR;
- b) Enact a comprehensive domestic law establishing an asylum system, in line with its obligations under international law, and provide international protection to those rescued at sea, in full respect of the principle of non-refoulement; and,
- c) Accede to the Rabat Process, in order to strengthen dialogue and consultation on addressing the challenges of mixed movements.

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MCO Senegal
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¹ <https://www.abc.com.py/internacionales/2023/01/16/cabo-verde-rescata-en-el-mar-a-90-migrantes-que-viajaban-en-cayuco-a-espana/>

² UN High Commissioner for Refugees (UNHCR), *The 10-Point Plan in Action, 2016 Update*, Chapter 1: Cooperation Among Key Partners, December 2016, available at: <https://www.refworld.org/docid/581b3bf54.html>.