



## **This document has been provided by the International Center for Not-for-Profit Law (ICNL).**

ICNL is the leading source for information on the legal environment for civil society and public participation. Since 1992, ICNL has served as a resource to civil society leaders, government officials, and the donor community in over 90 countries.

Visit ICNL's **Online Library** at  
<http://www.icnl.org/knowledge/library/index.php>  
for further resources and research from countries all over the world.

### Disclaimers

**Content.** The information provided herein is for general informational and educational purposes only. It is not intended and should not be construed to constitute legal advice. The information contained herein may not be applicable in all situations and may not, after the date of its presentation, even reflect the most current authority. Nothing contained herein should be relied or acted upon without the benefit of legal advice based upon the particular facts and circumstances presented, and nothing herein should be construed otherwise.

**Translations.** Translations by ICNL of any materials into other languages are intended solely as a convenience. Translation accuracy is not guaranteed nor implied. If any questions arise related to the accuracy of a translation, please refer to the original language official version of the document. Any discrepancies or differences created in the translation are not binding and have no legal effect for compliance or enforcement purposes.

**Warranty and Limitation of Liability.** Although ICNL uses reasonable efforts to include accurate and up-to-date information herein, ICNL makes no warranties or representations of any kind as to its accuracy, currency or completeness. You agree that access to and use of this document and the content thereof is at your own risk. ICNL disclaims all warranties of any kind, express or implied. Neither ICNL nor any party involved in creating, producing or delivering this document shall be liable for any damages whatsoever arising out of access to, use of or inability to use this document, or any errors or omissions in the content thereof.

# **THE CONSTITUTION OF THE REPUBLIC OF CAPE VERDE (1992)**

---

## **PREAMBLE**

## **PART I - Fundamental Principles**

### **TITLE I - The Republic**

### **TITLE II - International Relations and International Law**

## **PART II - Rights and Duties of Citizens**

### **TITLE I - General Principles**

### **TITLE II - Rights, Liberties and Guarantees**

#### **CHAPTER I - Individual Rights, Liberties and Guarantees**

#### **CHAPTER II - Rights, Liberties and Guarantees of Political Participation**

#### **CHAPTER III - Rights, Liberties and Guarantees of the Workers**

### **TITLE III - Economic, Social and Cultural Rights and Duties**

### **TITLE IV - Duties**

### **TITLE V - Family**

## **PART III - Economic, Financial and Fiscal Organization**

### **TITLE I - Economic System**

### **TITLE II - Financial and Fiscal System**

## **PART IV - Exercise and Organization of Political Power**

### **TITLE I - Forms of Exercise of Political Power**

#### **CHAPTER I - General and Common Principles**

#### **CHAPTER II - Referendum**

#### **CHAPTER III - Suffrage**

##### **SECTION I - General Principles**

##### **SECTION II - Election of the President of the Republic**

**SECTION III - Election of the Deputies to the National Assembly**

**CHAPTER IV - Political Parties**

**PART V - Organization of Political Power**

**TITLE I - General and Common Principles**

**TITLE II - The President of the Republic**

**CHAPTER I - Definition, Mandate and Coming into Office**

**CHAPTER II - Statute**

**CHAPTER III - Competence**

**TITLE III - National Assembly**

**CHAPTER I - Definition, Composition and Dissolution**

**CHAPTER II - Organization**

**CHAPTER III - Functioning**

**CHAPTER IV - Formation of the Acts**

**SECTION I - Initiative of Law and Referendum**

**SECTION II - Consideration and Vote**

**CHAPTER V - The Statute of the Deputies**

**CHAPTER VI - Competence of the National Assembly**

**SECTION I - Competence for the Practice of Organizational and Functional Acts**

**SECTION II - Legislative and Political Competence**

**TITLE IV - Government**

**CHAPTER I - Function, Political Responsibility, Composition and Organization**

**SECTION I - Function and Responsibility**

**SECTION II - Composition and Organization**

**CHAPTER II - Commencement and Cessation of Functions**

**CHAPTER III - Formation and Subsistence of Government**

**SECTION I - Formation**

**SECTION II - Political and Criminal Responsibility of the Members of the Government**

**SECTION III - Motion of Confidence, Censorship and Dismissal of the Government**

**CHAPTER IV - Powers of the Government**

**TITLE V - Judicial Power**

**CHAPTER I - General Principles**

**CHAPTER II - Organization of the Courts**

**CHAPTER III - Statute of the Judges**

**CHAPTER IV - Prosecuting Council**

**CHAPTER V - Lawyers**

**TITLE VI - Local Power**

**TITLE VII - Public Administration**

**TITLE VIII - National Defense**

**TITLE IX - Auxiliary Organs of the Organs of Political Power**

**CHAPTER I - Council of the Republic**

**CHAPTER II- Council for Regional Affairs**

**TITLE X - Form and Hierarchy of the Acts**

**CHAPTER I - Acts of the President of the Republic**

**CHAPTER II - Form of the Legislative and Normative Acts**

**CHAPTER III- Resolutions and Motions**

**CHAPTER IV - Hierarchy and Publication**

**PART VI - Guarantees of Defense and Revision of the Constitution**

**TITLE I - State of Siege or Emergency**

**TITLE II - Monitoring of the Constitutionality**

**TITLE III - Revision of the Constitution**

**PART VII - Final and Transitory Provisions**

---

**THE NATIONAL ASSEMBLY**

-----

**Constitutional Law n. 01/IV/92****of 25 September**

Relying on the mandate of the people, the People's National Assembly, pursuant to paragraph a) and b) of Article 58 of the Constitution, decrees the following:

**Article 1**

1. Articles 1 to 93 and article 96 of the Political Constitution of the Republic of Cape Verde, approved in the IX Legislative Session of I Legislature, in September 1980, are hereby revoked.
2. The Law n.2/81, of 14 February, the Constitutional Law n.1/III/88, of 17 December and the Constitutional Law n.2/III/990, of 29 September are revoked.

**Article 2**

The text of the Constitution of the Republic of Cape Verde, annexed to the present Law, of which it is an integral part, signed by the President of the National Assembly, is approved.

**Article 3**

The present Law shall come into force on the date of its publication.

Approved on 5 of August 1992

The President of the People's National Assembly, Amilcar Fernandes Spencer Lopes

Promulgated on 4 September 1992

To be published.

The President of the Republic, ANTONIO MANUEL MASCARENHAS GOMES MONTEIRO.

**PREAMBLE**

The proclamation of the National Independence stands as one of the highest moments in the History of the Capeverdean Nation. Factor of our identity and revitalization of our condition as a People subjected to the same vicissitudes of destiny, but sharing the deep hope for creating on these islands the conditions for a dignifying existence for all their children, the Independence created also the condition for Cape Verde to become a full fledged member of the international community.

Nonetheless, the affirmation of Cape Verde as an independent State did not coincide with The setting up of a regime of pluralist democracy, and instead the organization of political power obeyed the philosophy and principles which characterize one party rule regimes.

The exercise of power in the framework of such a model demonstrated, at the universal level, the necessity to introduce profound changes into the organization of the political and social life of States. New ideas spread out around the world bringing down structures and conceptions, which seemed to be entrenched, and changing completely the course of international political events. In Cape Verde, the political openness was announced in the year nineteen hundred ninety, leading to the creation of institutional conditions necessary for the first legislative and presidential elections, within a context of political competition.

Thus, on 28 September, the People's National Assembly approved the Constitutional Law n. 2/111/90 which, having revoked article 4 of the Constitution and institutionalized the pluralism principle, embodied a new type of political regime.

Conceived as an instrument to make the democratic elections viable and for the transition to a new model for the Nation's political and social organization, such Constitutional Law did not fail to institute, however, a different system of government and a different form of suffrage, in the wake of the elections for a new legislative assembly.

It was against this background that the first legislative elections were held in January 1991, followed by the presidential elections, in February. The impressive participation of the populations in these elections demonstrated, clearly, the Nation's choice for change of the political regime.

Nevertheless, the precise historical context in which the parties were recognized, through the mechanism of the Constitution revision, as the main instruments in the formation of the political will for the governance of the country, led to the situation in which pluralist democracy had to go along with certain rules and principles that were characteristic of the former regime.

Notwithstanding the social and political reality in which the country found itself, a process of quick and deep changes was under way, as the populations and the emergent political forces embraced the values which characterize a Democratic State based on the rule of Law and which, by their content, had already shaped a "de facto" model that was not reflected on the text of the Constitution.

The present Constitutional Law is thus designed to equip the country with a normative framework, the value of which is based on the establishment of the new model and not particularly on the harmony imprinted to the text. The choice for a Constitution laying down the structuring principles of a pluralistic democracy, leaving out the conjunctural options of governance, shall allow for the necessary stability of a country of meager resources and for political alternation without disruptions.

Accepting fully, the principle of people's sovereignty, the present text of the Constitution enshrines a Democratic State based on the rule of Law, with a vast catalogue of citizens rights, liberties and guarantees, a concept of the dignity of the human person as an absolute value which prevails on the State itself, a system of government based on the balance of powers amongst the various organs of sovereignty, a strong and independent judicial power, a local power whose organs holders are elected by the communities and are responsible before them, a Public Administration devoted to serve the citizens and conceived as an instrument for development, and a system of safeguards for the protection of the Constitution, characteristic of a regime of pluralist democracy.

This Constitutional Law thus formally embodies the profound political changes that took place in the country and creates the institutional conditions for the exercise of power and citizenship, in a climate of liberty, peace and justice, which are the foundations of all the economic, social and cultural development of Cape Verde.

## **PART I -- FUNDAMENTAL PRINCIPLES**

### **TITLE I -- THE REPUBLIC**

#### **Article 1 (Republic of Cape Verde)**

1. Cape Verde shall be a sovereign unitary and democratic Republic which shall guarantee the respect for the dignity of the human person and shall recognize the inviolability and inalienability of Human Rights as the foundation of the whole human community, peace and justice.
2. The Republic of Cape Verde shall recognize the equality of all its citizens before the law, without distinction as to social origin or economic status, race, sex, religion, political or ideological convictions and social status and shall ensure the full exercise of the fundamental freedoms by all citizens.
3. The Republic of Cape Verde shall be based on the popular will and shall have, as its main purpose, the realization of economic, political, social and cultural democracy and the creation of a free, just and solidary society.
4. The Republic of Cape Verde shall gradually create the conditions indispensable for the removal of all the obstacles that impede the full development of the human person and limit the equality of its citizens, as well as their effective participation in the political, economic, social and cultural organization of the State and in the Capeverdean society.

#### Article 2 (Democratic State based on the rule of Law)

1. The Republic of Cape Verde shall be organized in a democratic State based on the rule of Law, the principles of people's sovereignty, pluralism of expression and democratic political organization and on the respect for fundamental rights and liberties.
2. The Republic of Cape Verde shall, in the organization of political power, recognize and respect the unitary nature of the State, the republican form of the government, the pluralist democracy, the separation and interdependence of powers, the separation between the Church and the State, the independence of the courts, the existence and the autonomy of local power and the democratic decentralization of Public Administration.

#### Article 3 (Sovereignty and constitutionality)

1. The sovereignty rests with the people that exercise it in accordance with the forms established in and in conformity with the Constitution.
2. The State shall be subordinated to the Constitution and based on the democratic legality and shall respect and impose the respect of the law.
3. The laws and other acts of the state, local power and public entities in general shall only be valid if in conformity with the Constitution.

#### Article 4 (Exercise Of Political power)

1. The political power shall be exercised by the people through referendum, suffrage and through other forms provided for constitutionally.
2. The holders of the organs of political power shall be appointed by suffrage. They may also be appointed by the representatives of the people or through any other constitutionally or legally established form.

#### Article 5 (Citizenship)

1. Capeverdean citizens shall be those recognized as such by law or by international convention.
2. The State may conclude treaties of dual nationality.

3. Capeverdeans citizens may obtain the citizenship of another country without losing their citizenship of origin.

#### Article 6 (Territory)

1. The territory of the Republic of Cape Verde shall consist of:

a) The islands of Santo Antao, Sao Vicente, Santa Luzia, Sao Nicolau, Sal, Boa Vista, Maio, Santiago, Fogo and Brava and the islets and rocks which historically have always been part of the archipelago of Cape Verde;

b) The internal waters, the archipelagic waters and the territorial sea, as established by law, as well as their respective soil and subsoil;

c) The air space superjacent to the geographical areas referred to in the above subparagraphs;

2. In its contiguous zone, exclusive economic zone and continental shelf, as established by law, the Republic of Cape Verde shall have sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, and shall have jurisdiction in accordance with its domestic law and the norms and rules of international law.

3. No part of the national territory or of the sovereign rights which the State exercises over such territory shall be alienated.

#### Article 7 (Tasks of the State)

1. The State shall pursue the following fundamental tasks:

a) To defend the independence, to guarantee the unity of the Capeverdean Nation and to promote the social, cultural, economic and political conditions necessary to that effect;

b) To guarantee the respect for Human Rights and to ensure the full exercise of the fundamental rights and liberties of all citizens;

c) To guarantee the respect for the republican form of the Government and for the principles of the Democratic State based on the rule of Law;

d) To guarantee political democracy and democratic participation of all citizens in the organization of political power and in the overall aspects of political and social national life;

e) To promote the well-being and the quality of life of the Capeverdean people, namely of the layers of society more in need, and to remove, progressively, the obstacles of an economic, social, cultural and political nature which impede a real equal opportunity for all citizens;

f) To promote social solidarity, the autonomous organization of civil society, as well as the individual merit, initiative and creativity;

g) To support the Capeverdean Community world-wide and to promote in its midst the preservation and the development of the Capeverdean culture;

h) To foment education, culture, scientific investigation, the dissemination and the utilization of new technologies, as well as the dissemination of the Capeverdean culture in the world;

i) To create, progressively, the necessary conditions for the transformation and modernization of the economic and social structures, so as to make the economic, social and cultural rights effective;



j) To protect the landscape, nature, the natural resources and the environment, as well as the historical, cultural and artistic national heritage;

k) To guarantee the aliens that reside permanently or temporarily in Cape Verde or are on transit in the national territory, a treatment compatible with the international norms of Human Rights and the exercise of rights which are not, constitutionally or by law, reserved to the Capeverdean citizens.

#### Article 8 (National Symbols)

1. The National Flag, the National Anthem and the National Coat of Arms shall be the symbols of the Republic of Cape Verde and of national sovereignty.

2. The National Flag is made up of five rectangles laid out horizontally and one over the other.

The upper and lower rectangles bear the blue color, having the upper rectangle an area equivalent to half of that of the flag and the lower rectangle one area equivalent to one fourth of that of the flag.

Separating the two blue rectangles there are three lanes, each one with an area equivalent to one twelfth of that of the flag.

The lanes adjacent to the blue rectangles bear the white color and the lane that lies between them bear the red color.

Over the five rectangles there are ten yellow stars of five tips, whose upper vertex is laid out on a ninety degree position, which define a circle whose center is located in the intersection of the median line of the second vertical fourth from the left, with the median line of the second horizontal fourth from the lower margin. A star nearer to the lower margin is inscribed in an invisible circumference, whose center is located over the median line of the lower blue lane.

3. The National Anthem shall be established by law to be approved by a two thirds majority of the deputies on active duty.

4. The Coat of Arms of the Republic of Cape Verde reflects a radial composition which has, from the center to the periphery, the following elements:

- a) An equilateral triangle which bears a blue color, in which a white torch is inscribed;
- b) A circumference limiting a space in which the words "REPUBLIC OF CAPE VERDE" are inscribed from the left angle to the right angle of the triangle;
- c) Three blue colored line segments parallel to the base of the triangle bordered by the first circumference;
- d) A second circumference;
- e) A yellow plummet, aligned with the vertex of the equilateral triangle over the two circumferences on their upper part;
- f) Three yellow links placed on the composition base, followed by two green palms and ten yellow stars of five tips placed symmetrically in two groups of five.

#### Article 9 (The Capital City of the Republic)

The Capital of the Republic of Cape Verde shall be the city of Praia, on the Island of Santiago.

### TITLE II -- INTERNATIONAL RELATIONS AND INTERNATIONAL LAW

## Article 10 (International Relations)

1. The State of Cape Verde shall be guided in international relations by the principles of national independence, the respect for International Law and Human Rights, the equality amongst States, the non-intervention in the internal affairs of other States, the reciprocity of advantages, the cooperation with all other peoples and peaceful coexistence.
2. The State of Cape Verde shall uphold the rights of peoples to self-determination and independence and support the struggle of peoples against colonialism or any other form of domination or political or military oppression.
3. The State of Cape Verde shall advocate the abolition of all forms of domination, oppression and aggression, disarmament and the peaceful solution of conflicts, as well as the creation of an international order that is just and capable of securing peace and friendship amongst peoples.
4. The State of Cape Verde shall refuse the installation of military bases in its territory.
5. The State of Cape Verde shall render to the international organizations, namely the United Nations Organization and the Organization of African Unity, every necessary cooperation for peaceful solution of conflicts and for securing international peace and justice, as well as the respect for Human Rights and for the fundamental freedoms and shall support all efforts of the International Community aimed at guaranteeing the respect for the principles enshrined in the United Nations Charter.
6. The State of Cape Verde shall maintain special ties of friendship and cooperation with the countries of Portuguese official language and with the receiving countries of Capeverdean migrant workers.
7. The State of Cape Verde shall be engaged in the effort the African identity, unity and integration and in the strengthening of acts of cooperation for development, democracy, progress and well-being of peoples, for the respect of Human Rights, peace and justice.

## Article 11 (Reception of treaties and agreements in the domestic legal order)

1. General or common international law, insofar as it is in force in the international legal order, shall be an integral part of the Capeverdean legal order.
2. The international treaties and agreements, validly approved or ratified, shall be in force in the Capeverdean legal order after their official publication and their entry into force in the international legal order, and for the time that they are internationally binding on the State of Cape Verde.
3. The legal acts emanated from the relevant organs of the supranational organizations of which Cape Verde is a member, shall enter directly into force in the domestic legal order, provided that, that is so established in the respective constitutive instruments.
4. The rules and principles of general or common international law and of conventional international law, validly approved or ratified, shall prevail, after their entry into force in the international and domestic legal orders, over all legislative and domestic normative acts of an infra-constitutional value.

## Article 12 (Participation in and the termination of the binding effect of international treaties and agreement)

1. The participation of Cape Verde in any international treaty or agreement shall be subject to prior approval by the relevant constitutional organ.
2. The termination of the binding effect of international treaties and agreements by agreement,

denunciation, renunciation or by any other internationally accepted means shall be subject to the procedure followed for their approval.

#### Article 13 (Executive Agreements)

The executive agreements, which dispense with ratification, are approved by the Government and shall only cover subject matters that fall within the purview of the administrative jurisdiction of such organ.

## **PART II -- RIGHTS AND DUTIES OF CITIZENS**

### **TITLE I -- GENERAL PRINCIPLES**

#### Article 14 (Recognition of the inviolability of Rights, Liberties and Guarantees)

1. The State shall recognize the rights and liberties enshrined in the Constitution as being inviolable and shall guarantee their protection.
2. Any public authority shall have the duty to respect and guarantee the free exercise of the rights and liberties and the compliance with the constitutional or legal duties.

#### Article 15 (Responsibility of the public entities)

1. The State and other public entities shall be liable for actions or omissions of their agents, that take place in the exercise of their public functions or resulting therefrom and which, by any means, violate the rights, liberties and guarantees in detriment of the holder of such rights, liberties and guarantees or of third parties.
2. The agents of the State or of any public entity shall be criminally and disciplinary responsible for actions or omissions which result in violation of the rights, liberties and guarantees enshrined in the Constitution or established by law.
3. Everyone shall have the right to request compensation for the damages caused to him by the violation of his fundamental rights and liberties.

#### Article 16 (Ambit and direction of rights, liberties and guarantees)

1. The laws and international conventions may establish rights, liberties and guarantees not established in the Constitution.
2. The ambit and the essential content of constitutional norms concerning rights, liberties and guarantees shall not be restrained through interpretation.
3. The constitutional and legal norm concerning fundamental rights shall be interpreted and the gaps filled in conformity with the Universal Declaration of Human Rights.
4. The rights, liberties and guarantees shall be limited by law only when expressly allowed by the Constitution.
5. The laws limiting rights, liberties and guarantees shall be necessarily of a general and abstract character and shall not have retroactive effect, nor shall they diminish the ambit and the essential content of constitutional norms and they shall be strictly limited to the safeguard of other constitutionally protected rights.

#### Article 17 (Legal force)

The constitutional norms concerning the rights, liberties and guarantees shall be binding on all public and private entities and shall be directly applicable.

#### Article 18 (Right of Resistance)

Any citizen shall have the right not to obey any order that offends his right, liberties and guarantees and to resist by force any illegal aggression, when the recourse to the public authority is not possible.

#### Article 19 (Protection of Rights, Liberties and Guarantees)

1. Every citizen shall have the right to request the Supreme Court of Justice, through the amparo appeal, the protection of his constitutionally recognized fundamental rights, liberties and guarantees, in accordance with the law and pursuant to the following:
  - a) The amparo appeal shall only be filed against acts or omissions of public authorities, which are injurious of the fundamental rights, liberties and guarantees, once all other means of ordinary appeal have been exhausted;
  - b) The amparo appeal shall be filed through a simple petition and have an urgent character and its procedure shall be based on the summary principle.
2. Every citizen shall have the right to present, individually or collectively, to the public authority and to the representative organs of the people, complaints or claims against acts or omissions of the public powers that offend or threaten to offend his rights, liberties and guarantees.

#### Article 20 (Access to the Courts)

1. Every citizen shall have the right of access to judicial means, irrespective of his economic condition, and shall have the right to obtain, in a reasonable period, the effective protection of his rights or legitimate interests from the courts.
2. Every citizen shall have the right of defense and counsel assistance, as well as the access to information and legal consultancy, in accordance with the law.

#### Article 21 (Universality Principle)

1. Every citizen shall enjoy the rights, liberties and guarantees and be subject to the duties established in the Constitution.
2. Capeverdean citizens who reside or sojourn in a foreign country, shall enjoy the rights, liberties and guarantees and be subject to the constitutionally established duties which are not incompatible with their absence from the national territory.
3. The law may establish restrictions to the exercise of the political rights and to the access to certain public functions or positions by Capeverdean citizens who are not citizens by origin.

#### Article 22 (Principle of equality)

Every citizen shall have equal social dignity and be equal before the law. No one shall have privilege, benefit or be injured, deprived of any right or exempted from any duty, on account of race, sex, ascendancy, language, origin, religion, social and economic conditions, or political or ideological convictions.

#### Article 23 (Aliens and Stateless Persons)

1. The aliens and stateless persons who reside or sojourn in the national territory, shall enjoy the same rights, liberties and guarantees and be subject to the same duties as the Capeverdean citizens, with exception of the political rights and the rights and duties reserved, constitutionally or by law, to

national citizens.

2. The aliens and stateless persons may exercise public functions of a predominantly technical character, in accordance with the law.

3. Rights not granted to aliens and stateless persons may be recognized to the citizens of the Portuguese speaking countries, except for the access to being holders of the organs of sovereignty, the service in the Armed Forces and the diplomatic carrier.

4. The active and passive electoral capacity for the election of the holders of the organs of local administration may be granted by law to aliens and stateless persons residing in the national territory.

Article 24 (Regime of rights, liberties, guarantees)

The principles set out under this title shall be applicable to the individual rights, liberties and guarantees, as well as to the fundamental rights of analogous nature established in the Constitution, by law or in international convention.

Article 25 (Suspension of rights, liberties and guarantees)

The rights, liberties and guarantees shall only be suspended in case of the state of siege or emergency, in accordance with the provisions of the Constitution.

## **TITLE II -- RIGHTS, LIBERTIES AND GUARANTEES**

### **CHAPTER I -- INDIVIDUAL RIGHTS, LIBERTIES AND GUARANTEES**

Article 26 (The right to life and to physical and moral integrity)

1. Human life and the physical and moral integrity of the human person shall be inviolable.
2. No one shall be submitted to torture, cruel, degrading or inhumane penalties and treatment and, in no circumstances, shall there be death penalty.

Article 27 (The right to freedom)

1. The right to freedom shall be inviolable.
2. Freedom of thought, of expression, of association, of religion, of cult, of intellectual, artistic and cultural creation, of demonstration and the remaining freedoms established in the Constitution, by law and in general or conventional international law, received in the internal legal order, shall be guaranteed.
3. No one shall be obliged to declare his ideology, religion or cult, political or trade union affiliation.

Article 28 (Right to freedom and security of person)

1. Anyone shall have the right to freedom and security. No one shall be deprived, in part or in whole, of his freedom, save in case of a condemnatory judicial sentence for the commission of acts punishable by law with imprisonment penalty or by judicial imposition of security measures.
2. The preceding paragraph shall not apply to the deprivation of freedom for the time strictly necessary to the attainment of the objectives set, in accordance with the conditions established by law, in one of the following cases:
  - a) Imprisonment "in flagrante delicto";

- b) Strong evidence of the commission of voluntary crime punishable with imprisonment penalty, whose maximum limit is more than two years and insufficiency or inappropriateness of measures of provisional liberty;
- c) Non-compliance with the condition imposed on the indicted person under the regime of provisional liberty;
- d) Detention or imprisonment to secure the obedience to judicial decision or the presence before the judicial authority competent for the practice of or compliance with a judicial act;
- e) Subjection to security measures, assistance and protection of minors or of senior persons who by law shall enjoy the same status as the former;
- f) Imprisonment or detention of persons against whom extradition or expulsion proceedings is underway;
- g) Disciplinary imprisonment imposed on military and police agents with a guarantee of appeal to the competent court in accordance with the law, after exhausting all the hierarchical means.

3. Any detained or imprisoned person shall be immediately informed, in an unequivocal and understandable manner, of the reasons for his detention or his imprisonment and about his constitutional and legal rights and he shall be authorized to contact counsel directly or through his family or person of his confidence.

4. The detained or imprisoned person shall not be obliged to make statements.

5. The detained or imprisoned person has the right to the disclosure of the identification of those responsible for his detention or imprisonment or for his interrogation.

6. The detention or imprisonment of any person and the precise place where he is found shall be conveyed immediately to the family of the detained or imprisoned person or to the person he indicates, with a summary description of the reasons which led to his detention or imprisonment.

#### Article 29 (Preventive imprisonment)

1. Any person detained or imprisoned without being convicted shall be compulsory presented, in a period of not more than forty eight hours to a competent judge who shall explain to him in clear terms the reasons for his detention or imprisonment, inform him about his rights and duties, interrogate him in the presence of the defense counsel freely chosen by him, give him the opportunity to defend himself and produce decisions, substantiating the reasons for the validation or the maintenance of his imprisonment.

2. Preventive imprisonment shall not be maintained whenever it can be substituted by security, bail or by any other more favorable measure established by law.

3. The judicial decision of validation or maintenance of preventive imprisonment and the precise place where it will be carried out shall be immediately conveyed to a family member of the detained or imprisoned person or to a person of his confidence that he indicates.

4. The preventive imprisonment with or without conviction is subject to the periods established by law and shall not be, in any case, longer than thirty six months from the date of the detention or arrest, in accordance with the law.

#### Article 30 (Application of the Penal Law)

1. The penal responsibility shall be personal and intransmissible.

2. The retroactive application of the Penal Law shall be prohibited, except if the content of the most recent law is more favorable to the indicted person.
3. The application of security measures the constituent elements of which are not established in the previous law shall be prohibited.
4. No penalty or security measures shall be applied unless they are expressly contemplated in a previous law.
5. No one shall be tried more than once for the commission of the same crime nor be punished with penalty not expressly established by law or with penalty more severe than that established by law at the moment of the commission of the delinquent behavior.
6. The security measures that are restrictive of liberty based on serious mental abnormality which results in a dangerous situation may be renewed successively, by judicial decision, for the time that the mental abnormality lasts and if the adoption of other measures that are not restrictive of liberty is not clinically possible or advisable.
7. The provision of paragraph 2 does not impede the punishment, in accordance with domestic law, for action or omission which, at the time they occurred, were considered criminal, pursuant to the principles and norms of general or common international law.

#### Article 31 (Prohibition of life imprisonment or imprisonment of an unlimited duration)

There shall not be, in any circumstances, penalty depriving of liberty, or security measure of a permanent character or with an unlimited or indefinite duration.

#### Article 32 (Effects of penalties and security measures)

No penalty or security measure shall entail, as a necessary effect, the loss of civil, political or professional rights nor shall they deprive the convicted person of his fundamental rights, except for the limitations inherent to the conviction and to the specific requirements for the implementation of the condemnatory decision.

#### Article 33 (Principles of penal procedures)

1. Every indicted person shall be presume innocent until his conviction becomes "res judicata," and shall be tried in the shortest time possible, compatible with the defense guarantees.
2. The indicted person shall have the right to choose freely his defense counsel to assist him in all procedural steps.
3. The indicted persons who, for economic reasons, are unable to hire defense counsel, shall have adequate judicial assistance to be provided for by relevant institutes.
4. Criminal procedure shall be subject to the contradictory principle.
5. The right to a hearing and the right of defense in criminal procedure shall be inviolable and be guaranteed to every indicted person.
6. Any evidence obtained through torture, force, violation of the physical and moral integrity, abusive interference with correspondence telecommunications, domicile or with private life or through other illicit means shall be null and void.
7. The hearings in criminal procedure shall be public, unless the preservation of personal, family or social intimacy require the exclusion or the restriction of publicity.

8. No case shall be withheld from a court whose competence has been established in previous law.
9. The rights of the indicted persons to a hearing and defense in disciplinary process shall be secured, in accordance with the law.
10. The exercise of the right to a hearing and defense in processes of regulatory offences or in disciplinary processes, in which the accused persons are military or police agents, shall be regulated by special law.

#### Article 34 (Habeas Corpus)

1. Any person detained or imprisoned illegally may apply for Habeas Corpus to the competent court.
2. Any citizen enjoying his political rights may apply for habeas corpus in favour of a person illegally detained or imprisoned.
3. The court, within a period of ten days, shall take a decision on the habeas corpus application.
4. The law will regulate the habeas corpus procedure.

#### Article 35 (Extradition and expulsion)

1. No Capeverdean citizen shall be extradited or expelled from his country.
2. Aliens or stateless persons shall not be extradited for political or religious reasons or on account of offense of opinion.
3. The extradition for crimes punishable by the law of the requesting State with death penalty or life imprisonment or in situation in which there is substantial reason to believe that the person to be extradited could be subjected to torture, inhumane, degrading or cruel treatment, shall not be allowed.
4. The expulsion from the national territory of aliens and stateless persons authorized to reside in the country or that have requested asylum shall only take place through judicial decision.
5. The extradition shall only be allowed in case where it is expressly provided for by law or by international convention.

#### Article 36 (The asylum right)

1. Aliens or stateless persons persecuted for political reasons or seriously threatened of persecution on account of their activity in favor of national liberation, democracy or the respect for human rights, shall be granted the right of asylum in the national territory.
2. The law will define the statute of the political refugee.

#### Article 37 (The right to nationality)

No Capeverdean citizen by origin shall be deprived from nationality or from the prerogatives of citizenship.

#### Article 38 (The right to identity, good name and image)

1. The right to personal identity, civil capacity, good name, honor and reputation, to image and intimacy of personal and family life shall be guaranteed.



2. Civil capacity shall only be limited through a judicial decision, in the cases and as provided or by law.

#### Article 39 (Right to choose profession and of access to civil service)

1. Every citizen shall have the right to choose freely his occupation, work or profession or to undertake his professional education, except in cases of legal restrictions imposed on account of public interest or inherent to his own capacity or professional qualifications.

2. Every citizen shall have the right of access to civil service in conditions of equality, in accordance with the law.

3. No one shall be obliged to undertake a given work, except in compliance with a general public service that is equal for all or by virtue of a judicial decision, in accordance with the law.

#### Article 40 (Inviolability of domicile)

1. The domicile shall be inviolable.

2. No one shall enter the domicile of any person or undertake therein search or seizure against the will of the latter, except when in possession of judicial mandate issued in the cases of, and in conformity with, the form legally established or in case of flagrante delicto or to assist in an emergency.

3. The law shall typify the cases in relation to which the competent judicial authority shall order the entry, search and seizure of valuables, documents and other objects in the domicile.

4. In no circumstances the entry, search or seizure in the domicile during the night shall be allowed.

#### Article 41 (Inviolability of correspondence and telecommunications)

The secrecy of correspondence and telecommunications shall be guaranteed, except in cases in which, through judicial decision rendered in accordance with the procedural criminal law, the interference with the correspondence and telecommunications by the public authorities is allowed.

#### Article 42 (Utilization of computerized means)

1. The utilization of computerized means for registration and treatment of data that are individually identifiable, relative to political, philosophical and ideological convictions or to religious faith, party or trade union affiliation and private life, shall be prohibited.

2. The law will regulate the protection of personal data stored in the computerized record, the conditions of access to the data banks, as well as the establishment and the use, by public or private authorities, of such data banks or computerized software.

3. The access to the archives file, computerized records and data bases for information on personal data relative to third parties or the transfer of personal data from one computerized file to another belonging to different services or institutions shall not be allowed, except in cases laid out by law or by judicial decision.

4. In no circumstance shall there be a sole national number ascribed to Capeverdean citizens.

#### Article 43 (Habeas data)

1. Habeas data shall be granted to every citizen to secure his knowledge of information stored in files, archive or computerized records concerning him, as well as to inform him of the objective of such information and to demand a correction or update of the data.

2. The law will regulate the habeas data procedure.

#### Article 44 (Marriage and filiation)

1. Everyone shall have the right to get married, in the civil or religious form.
2. The law will regulate the requirements and the civil effects of marriage and its dissolution, irrespective of the form of its celebration.
3. The spouses have equal civil and political rights and duties.
4. The children shall only be separated from their parents through judicial decision and always in cases provided for by law, should the latter not comply with their fundamental duties towards the former.
5. The discrimination against children born out of wedlock or the use of any discriminatory designation concerning filiation shall not be allowed.
6. Adoption shall be allowed and the law will regulate its forms and conditions.

#### Article 45 (Freedom of expression and information)

1. Everyone shall have the freedom to express and to disseminate his ideas through word, image and any other means and no one shall be subjected to discomfort, on account of political, philosophical, religious and other opinion.
2. Everyone shall have the freedom to inform and to be informed, to search for, receive and disseminate information and ideas and in any form, without limitations, discrimination or impediments.
3. The limitations in the exercise of these freedoms, by any type or form of censorship, shall be prohibited.
4. The freedom of expression and information shall have as its limits the right of every citizen to honor and to good name, to image and intimacy of personal and family life, as well as to protection of the youth and the infancy.
5. The offences committed in the exercise of the freedom of expression and information shall entail civil, disciplinary and criminal responsibility for the violator, in accordance with the law.
6. Every natural or juridical person shall have the right of reply and of correction, as well as the right of compensation for the damages caused, as a result of offences committed in the exercise of the freedom of expression and information, in conditions of equality and efficacy.

#### Article 46 (Freedom of the press)

1. The freedom of the press shall be guaranteed.
2. The provision of the previous article shall be applicable to the freedom of the press.
3. The freedom and the independence of the media in relation to the political and economic power and its non-subjection to censorship of any type shall be guaranteed.
4. The expression and confrontation of ideas of different currents of opinion in the media owned by the public sector shall be guaranteed.
5. The State shall guarantee the impartiality of the media owned by the public sector, as well as the

independence of its journalists in relation to the Government, the Administration and to any other public entity.

6. The establishment or creation of newspapers and other publications shall not require administrative authorization nor shall they be conditioned to prior deposit of security or any other guarantee.

7. The establishment or creation of radio or television stations shall require license to be granted through public competition in accordance with the law.

8. The access to the sources of information shall be guaranteed to the journalists, in accordance with the law, and the protection of the latter's professional independence and secrecy shall be ensured. No journalist shall be obliged to reveal his source of information.

9. The State shall ensure the existence and the functioning of a public service of radio and television.

10. The ownership and the financial means of the mass media shall be obligatory disclosed, in accordance with the law.

11. The seizure of newspapers and other publications shall only be allowed in cases of violation of the mass media law or whenever such publications do not indicate the persons responsible for them.

#### Article 47 (Right of antenna, reply, and political argument)

1. The political parties shall have the right to:

a) A broadcasting time on public radio and television, in conformity with their representativeness and such other objective criteria as may be defined by law;

b) Reply and political argument in relation to declarations of the government.

2. The right of broadcasting time may also be granted by law to the trade unions, enterprises and the religious institutions.

3. The right of reply shall be granted to all professional associations representative of the economic, social or cultural activities, as well as to religious institutions.

4. During the electoral periods, the competitors shall have the right to a broadcasting time, on a regular and equitable manner, in all radio and television stations, however their ambit or ownership may be, in accordance with the law.

5. The law will regulate the right of broadcasting time, reply and political argument established in this article.

#### Article 48 (Freedom of conscience, religion and cult)

1. The freedom of conscience, religion and cult shall be inviolable and everyone shall have the right, individually and collectively, to follow a religion or not, to have a religious conviction of his own choice, to participate in the act of cult and freely express his faith and to disseminate his doctrine or conviction, provided that he does not cause harm to the right of others or to the common good.

2. No one shall be discriminated against, persecuted, injured, deprived from his rights nor have any benefit or be exempted from his duties on account of his religious faith, conviction or practice.

3. The churches and other religious communities shall be separated from the State and shall be independent and free in their organization or in the exercise of their own activity, being them considered partners in the promotion of social and spiritual development of the Caperverdean people.

4. The freedom of religious teaching shall be guaranteed.
5. The freedom of religious assistance in the hospital, assistance and prison establishments, as well as in the Armed Forces shall be guaranteed in accordance with the law.
6. The right to use the mass media shall be recognized to churches in accordance with the law for the pursuit of their activities and goals.
7. The protection of the cult places, insignias and religious rites shall be guaranteed and their imitation or ridicule shall be prohibited.
8. The right to conscientious objection shall be guaranteed in accordance with the law.

#### Article 49 (Freedom to learn, educate and teach)

1. Everyone shall have the freedom to learn, educate and teach.
2. The freedom to learn, educate and teach encompasses the right:
  - a) To attend learning and education establishments and to teach therein without any discrimination, in accordance with the law;
  - b) To choose the field of education or programme;
  - c) To set up schools and educational establishments.
3. The fundamental right of the family to educate its children in conformity with the ethical and social principles, resulting from its philosophical, religious, ideological, aesthetical, political and other convictions, shall be recognized.
4. The State shall not program education and culture in conformity with any philosophical, aesthetical, political, ideological or religious directives.
5. Public education shall not be religious.
6. The State shall not monopolize teaching and education and the freedom to set up schools and educational establishments shall be recognized to the communities, social groups and private individuals in general, in accordance with the law.

#### Article 50 (Freedom of movement and emigration)

1. Every citizen shall have the right to leave and to return freely to the national territory, as well as to emigrate.
2. The restrictions of the rights set out in the preceding paragraph shall only be imposed through judicial decision and shall always have a temporary character.

#### Article 51 (Freedom of association)

1. The creation of associations shall be free and shall not require any administrative authorization.
2. The associations shall be free in the pursuit of their goals and shall not be subjected to the interference of the authorities.
3. The dissolution of the associations or the suspension of their activities shall only be determined through judicial decision in accordance with the law.

4. Armed associations or associations of a military or para- military type as well as those that aim at promoting violence, racism, xenophobia or dictatorship or pursue goals contrary to criminal law shall be prohibited.

5. No one shall be obliged to be or to remain a member of an association.

#### Article 52 (Freedom of assembly and demonstration)

1. The freedom of assembly and peaceful demonstration and without arms shall be guaranteed to every citizen, including in places open to the public, without the necessity for authorization.

2. The promoters of assembly or demonstration in places open to the public shall so inform the competent authority ahead of time.

#### Article 53 (Freedom of intellectual, artistic and cultural creation)

1. Intellectual, cultural and scientific creation, as well as the dissemination of literary, artistic and scientific work shall be free.

2. The law shall guarantee the protection of copyrights.

### **CHAPTER II -- RIGHTS, FREEDOMS AND GUARANTEES OF POLITICAL PARTICIPATION**

#### Article 54 (Participation in public life)

1. Every citizen shall have the right to participate in the political life, directly and through his freely elected representatives.

2. All citizens, with eighteen or more years of age shall have the right to be electors.

3. The voting right shall not be limited, unless by virtue of incapacity established by law.

#### Article 55 (Participation in the conduct of public affairs)

1. Every citizen shall have the right of access, in conditions of equality and liberty, to civil service and elected office, in accordance with the law.

2. No one shall be harmed in his professional career, his employment or in the social benefits he is entitled to, on account of his holding of public office or the exercise of his political rights.

3. The law shall guarantee the impartiality and the independence in the exercise of public office and shall establish the necessary ineligibility criteria to that end.

#### Article 56 (Political Parties)

The establishment of political parties, as well as their merger, coalition or abolition shall be free, in accordance with the Constitution and the law.

#### Article 57 (Right of petition, claim and complaint)

Every citizen shall have the right to present, in writing, individually or collectively, to the public authorities, petitions, complaints or claims for the protection of his rights or against illegalities or abuse of power, in accordance with the law.

**CHAPTER III -- RIGHTS, LIBERTIES AND GUARANTEES OF THE WORKERS**

## Article 58 (Right to work, social security, vacation and material assistance)

1. Work shall be a right of every citizen. The State shall have the duty to create the necessary conditions for the effective realization of such right.
2. The right to adequate social security in case of illness, work accident, old age or involuntary unemployment, as well as to paid and periodical vacation, rest, leisure and material assistance shall, progressively, be guaranteed to all workers, in accordance with the national economic development.

## Article 59 (Right to a pay and job security)

1. Everyone shall have the right to a pay proportionate to the quantity and the quality of work and to job security.
2. Layoffs for political or ideological motives shall be prohibited.
3. Layoffs without probable cause as established in law shall be illegal.
4. Every worker shall have also the right to the organization of work under dignifying conditions, to carry out his work duties under hygienic and security conditions and to a maximum working day limit, as well as to a pause, leisure and to weekly rest.
5. Men and women alike shall get equal pay for equal work.
6. The law shall establish special protection for the minor's working conditions, for the disabled persons and women during their pregnancy, as well as after the delivery and shall guarantee to women the working conditions that will allow them exercise their family and maternal function.

## Article 60 (National minimum wage and maximum working time limit)

The State shall determine, at the national level, the working time limits and shall create the conditions for the establishment of a national minimum wage for the different sectors of activity.

## Article 61 (Freedom of professional and trade union associations)

1. The freedom to establish trade union or professional associations shall be recognized to every work for the protection of his interests and collective or individual rights.
2. The establishment of trade union or the professional associations shall not require administrative authorization.
3. Full organizational, functional and regulatory autonomy shall be guaranteed to the trade union associations and professional associations.
4. The trade union and the professional associations shall be bound by the principles of democratic organization and management, based on the active participation of their members in all their activities and by the periodic election of their organs through secret ballot.
5. The trade union and the professional associations shall be independent from the employer, the State, the political parties, the Church or religious communities.

6. The law will regulate the establishment, union, federation and the abolition of the trade union and professional associations and shall guarantee their independence and autonomy from the State, employer, political parties and associations, the Church and religious communities.

7. The law shall ensure the adequate protection of the workers' elected representatives against any limitations to the exercise of their functions, persecution or threat against them in their working place.

#### Article 62 (Freedom of enrollment in trade unions)

No one shall be obliged to enroll in a trade union or professional association, nor remain trade-unionized or professionally associated, nor pay contribution fees to trade union or professional associations in which he is not enrolled.

#### Article 63 (Right of trade unions and professional associations)

1. With a view to defending the workers rights, the trade unions shall have the right to participate, in accordance with the law:

a) in the organisms of social reconciliation;

b) in the definition of the policy of social security and other institutions aimed at protecting and defending the workers interests;

c) in the elaboration of the labor legislation.

2. The trade unions shall have the competence to conclude collective labor agreements.

#### Article 64 (The right to strike and prohibition of lock out)

1. The right to strike shall be guaranteed, and it shall depend on the workers to decide on the opportunity to exercise it and the interests which they purport to protect with it.

2. The lock out shall be prohibited.

3. The law will regulate the exercise of the right to strike.

### **TITLE III -- ECONOMIC, SOCIAL AND CULTURAL RIGHTS AND DUTIES**

#### Article 65 (Private economic initiative)

1. Everyone shall have the right to free private economic initiative, which shall be exercised in conformity with the Constitution and the law.

2. Everyone shall have the right to set up enterprises and cooperatives, in accordance with the law.

#### Article 66 (Right to private property)

1. Everyone shall have the right to private property, as well as its transfer in life or as a result of death, in accordance with the Constitution and the law.

2. The right to inheritance shall be guaranteed.

3. The requisition or expropriation for public reasons shall only take place in accordance with the law and always against the payment of a just compensation.

#### Article 67 (The right to social security)

1. Everyone shall have the right to social security, in conformity with the national development, for his protection in the unemployment, illness, disability, old age, or as an orphan and in all situations of lack or diminution of the means of subsistence or of the capacity to work.

2. The State shall ensure the gradual creation of the conditions that are indispensable to the exercise of these rights, namely through the adoption of policies towards the setting up of a decentralized national system of social security and a national network of medical and hospital services.

#### Article 68 (Health)

1. Everyone shall have the right to health and the duty to defend and promote it, irrespective of his economic condition.

2. The right to health shall be achieved through an adequate network of health services and the gradual creation of economic, social and cultural conditions necessary to guarantee the improvement of quality of life of the populations.

3. With a view to guaranteeing the right to health, the State shall, namely:

a) Ensure, in conformity with the economic resources available, a national, universal and hierarchical health service, based on complete coverage, priority being given to preventive activities.

b) Encourage the participation of the community in different levels of health services;

c) Coordinate and discipline public and private initiatives in the field of health;

d) Discipline and control the production, commercialization and the use of the chemical, biological, pharmaceutical and other means of treatment, as well as the diagnoses.

#### Article 69 (Dwelling)

Everyone shall have the right to a dwelling which should have a minimum of dignity and, for this purpose, the State shall undertake to promote, gradually and in conformity with the national economic development, the creation of the appropriate institutional, legal and infrastructural conditions, foment and support the initiatives of the local communities and of the population and stimulate private housing development and the access to privately owned housing.

#### Article 70 (Environment)

1. Everyone shall have the right to a healthy life and ecologically balanced environment and the duty to defend and conserve it.

2. The State and the municipalities, with the collaboration of the associations for environment protection, shall adopt policies for the protection and conservation of the environment and shall ensure the rational utilization of all natural resources.

3. The State shall stimulate and support the creation of associations for the protection of the



environment and natural resources.

#### Article 71 (Youth)

1. Every young person shall have the right to special protection from his family, the society and the State which should allow him to develop his personality, his physical and intellectual capacity and integrate himself fully into the social, cultural, political and economic life.
2. The family, the society and the State shall promote the conditions for the free participation of young people in the political life and in the economic and social development and for the realization of their social, cultural, political and economic rights.
3. The State and the society shall stimulate and support the creation of youth organizations aimed at pursuing cultural artistic, recreational, sportive and educational goals.
4. Th State, in cooperation with the associations representing parents and education guardians, as well as the private institutions and the youth organizations, shall adopt a national youth policy to promote and foment the professional education of young people, the access to their first employment and the free intellectual and physical development of youth.

#### Article 72 (The right of the disabled and the elderly)

1. The disabled and the elderly shall have the right to special protection from their family, the society and the State, which should guarantee to them priority in the public and private services attendance, special treatment and care, as well as the conditions necessary to avoid their marginalization.
2. The State, in cooperation with the private entities and the disabled or the elderly associations, shall promote a national policy aimed at, gradually:
  - a) guaranteeing the prevention, treatment, rehabilitation and integration of the disabled;
  - b) guaranteeing to the elderly and the disabled the economic, social and cultural conditions which should allow them to participate in the social life;
  - c) sensitizing the community for the problems of the disabled and the elderly, as well as for the need to create the conditions aimed at avoiding their isolation and social marginalization.
3. The State shall foment and support the special education and the creation of special schools for technical and professional education of the disabled.
4. The State shall foment and support the creation of associations of the disabled and the elderly.

#### Article 73 (Education)

1. Everyone shall have the right to education.
2. The State shall ensure the elementary education, which shall be compulsory, universal and free of charge and whose duration shall be established by law.
3. All the education shall be under State monitoring.

#### Article 74 (Education policy)

1. The State shall promote an education policy which should aim at the gradual elimination of analphabetism, the permanent education, the creativity, the integration of the schools into the community and the civic education of the students.

2. The State shall guarantee to the students who have scarce economic resources the access to the various levels of education and promote a policy of scholarships or economic aid based on the capacity and the personal merit of the student.

#### Article 75 (Public, private and cooperative education)

1. The State shall create a network of public education establishments aimed at satisfying the necessities of the population.

2. The State shall recognize the private and cooperative education and guarantee to the private entities or institutions, as well as to the cooperatives the right to establish schools at different levels of education, in accordance with the law.

3. The State shall cooperate with the private schools or cooperatives with the aim of fomenting the widening of the education network, the elimination of analphabetism, the permanent education, the quality of education, the training or the continued education of the teachers and the remaining conditions necessary for the education improvement.

#### Article 76 (Participation in the education)

1. The teachers, parents, education guardians and students shall have the right to participate in the democratic management of the schools, in accordance with the law.

2. The law will regulate the forms of participation of teachers, students and parents associations, as well as communities, institutions of a scientific character and the professional and trade union associations in the formulation of the education policy.

#### Article 77 (Education and Culture)

1. Everyone shall have the right to education and culture.

2. Education should stimulate creativity, promote democratic participation of all in the national life, tolerance and solidarity and contribute towards social progress and civil and moral education.

3. The State shall promote the democratization of the education and culture and shall, gradually, guarantee the access of everyone to the enjoyment of cultural goods.

4. The State shall foment and support the creation of institutions and public or private associations which promote the education and culture, as well as the protection of the cultural heritage.

5. The State shall support the dissemination of Capeverdean culture, namely in the midst of the Capeverdean communities spread out around the world.

#### Article 78 (Physical education sport)

1. Everyone shall have the right to physical education and sport.

2. The State shall support and stimulate the establishment of sport associations or collectivities and,

in collaboration with these associations, shall promote the practice and the dissemination of physical education and sport.

#### Article 79 (Consumers)

The State shall support and foment the establishment of consumer associations and the law shall protect the consumer and guarantee the protection of his rights.

### **TITLE IV -- THE DUTIES**

#### Article 80 (General Duties)

1. Everyone shall have duties towards his family, the society and the State and also towards other legally recognized institutions.
2. Everyone shall have the duty to respect the rights and liberties of others, the mores and the public good.

#### Article 81 (Duties towards his peers)

Everyone shall have the duty to respect and show consideration for his peers, without any discrimination, and to maintain with them relations which facilitate the promotion, safeguard and the strengthening of mutual respect and tolerance.

#### Article 82 (Duties towards the Community)

Everyone shall have the duty to:

- a) Serve the national community, making available to it his physical and intellectual capacities;
- b) Work within the limits of his capabilities and capacities;
- c) Pay the contributions and taxes established by law;
- d) Undertake to ensure, in his relations with the community, the preservation and the reinforcement of cultural values, spirit of tolerance, dialogue and compromise and, in general, to contribute towards the promotion of moral and civic education;
- e) Defend and promote health;
- f) Defend and preserve the environment.

#### Article 83 (Duties towards the State)

1. Everyone shall have the duty to contribute towards the defense of his country.
2. Everyone shall have also the duty to comply with the duties laid down by law and to abide by the orders of the legitimate authorities, issued in accordance with the Constitution, observance being made of the respect for his rights, liberties and guarantees.

### **TITLE V -- THE FAMILY**

#### Article 84 (Protection of the society and State)

1. The family shall be the fundamental element and the foundation of the whole society.
2. The family should be protected by society and by the State in such a manner as to allow for the creation of conditions for the compliance with its social function and for the personal fulfillment of its members.
3. Everyone shall have the right to have a family.
4. The State and the social institutions shall create the conditions which will ensure the unity and the stability of the family.

#### Article 85 (Tasks of the State)

1. With a view to protecting the family, the State shall undertake, namely:
  - a) to assist the family in its mission as a keeper of moral values recognized by society;
  - b) to promote social and economic independence of the families,
  - c) to cooperate with the parents in the education of their children,
  - d) to define and implement, in consultation with the associations representative of the families, a policy for the family which has a global and integrated character;
2. The State shall also have the duty to undertake the elimination of the conditions which are conducive to discrimination against women and to ensure the protection of their rights, as well as the rights of the children.

#### Article 86 (Fatherhood and motherhood)

1. Fathers and mothers shall assist their children born inside and outside the wedlock, namely with respect to their feeding, guardianship and education.
2. Fathers and mothers shall have the right to protection by society and the State in the fulfillment of their irreplaceable role in relation to their children.
3. Fatherhood and motherhood shall be eminent social values.

#### Article 87 (Infancy)

1. Every child shall have the right to special protection from their family, society and the State, which shall guarantee to them the necessary conditions for the integral development of their physical and intellectual capacities, as well as special care in case of illness, abandonment or lack of affection.
2. The family, society and State shall guarantee the protection of the child against any form of discrimination or oppression, as well as against the abusive exercise of the authority in the family, in public or private institutions to whose guardianship he has been entrusted and also against the exploitation of child labor.
3. Children under compulsory school age shall be prohibited from working.

### **PART III -- ECONOMIC, FINANCIAL AND FISCAL ORGANIZATION**

## TITLE I -- THE ECONOMIC SYSTEM

### Article 88 (General Principles)

1. All the resources and economic wealth of the Nation, whatever the ownership and the form they may take, shall be subordinated to the general interest.
2. The State shall guarantee the conditions for the realization of economic democracy, undertaking to ensure:
  - a) The enjoyment by every citizen of the benefits resulting from the collective effort in the social and economic development, translated, namely, into the quantitative and qualitative improvement of their living standard;
  - b) The equality of conditions for the establishment, realization and competition of all private and public economic agents;
  - c) The participation of different social and economic groups, through their representatives and organs of local administration in the process of conceiving, approving, implementing and evaluating the development plans;
  - d) The environment favorable to free and generalized access to knowledge, information and property;
  - e) The balanced development of all the regions and the appropriate exploitation of specific and comparative advantages.
3. The economic activities shall not jeopardize the eco-system, nor should they contribute to the disequilibrium of the relations between man and the environment.
4. The State shall support the national economic agents in their relation with the rest of the world and, especially, the economic agents and activities that contribute positively to the integration of Cape Verde into the world economic system.

### Article 89 (External Investment)

The State shall promote and support foreign investment which might contribute to the economic and social development of the Nation.

### Article 90 (Co-existence of sectors of the economy)

1. The co-existence of the following sectors of the economy shall be guaranteed:
  - a) Public sector, constituted by the means of production whose property and management belong to the State or to other public entities;
  - b) Private sector, constituted by the means of production whose property and management belong to the natural or juridical persons, including the cooperatives. 2. Community means of production belonging to local communities and managed by them may be allowed.

### Article 91 (Public Domain)

1. The following belongs to the public domain:

- a) The internal waters, the archipelagic waters and the territorial sea, as well as their bed and subsoil;
- b) The air space superjacent to the national territory above the limit recognized to private ownership;
- c) The continental shelf;
- d) The living and non-living resources existing in the internal waters, archipelagic waters, territorial sea, contiguous zone, exclusive economic zone and continental shelf,
- e) The mineral deposits and the subterranean natural caves existing in the subsoil.
- f) The roads and the public path-ways;
- g) The beaches and the maritime territorial zone;
- h) Any other asset that may be determined by law.

2. The law will regulate the legal regime applicable to the assets of the public domain, as well as their management and conservation, stating those that belong to the public domain of the State and those that belong to the local administration and to the communities, safeguarding the respect for the principles of inalienability , and non-prescription, as well as the principle of the non-use of such properties as a guarantee and their non-appropriation.

#### Article 92 (Plans)

1. The economic and social development of Cape Verde shall be guided by the national plan which shall have an indicative character and contain the fundamental orientations of the sectorial and regional plans.
2. The major options of the plan and the national plan shall be drawn-up by the Government, in accordance with its program.
3. The plan major options shall be submitted to the National Assembly for approval.
4. The implementation of the plans shall be decentralized, without prejudice to their coordination by the Government.

### **TITLE II -- FINANCIAL AND FISCAL SYSTEM**

#### Article 93 (Financial system)

The financial system shall guarantee the formation and the channeling of savings, as well as the application of the financial means necessary to the economic and social development of the country.

#### Article 94 (The Bank of Cape Verde)

1. The Bank of Cape Verde shall be the central bank which shall have the exclusive right to issue money and collaborate in the definition and implementation of the monetary, financial and exchange rate policies in accordance with the law.
2. The provision of the preceding paragraph shall not exclude the limitations, nor the compliance with the obligations imposed by the participation of Cape Verde in the supra-national organizations

for African regional and subregional integration.

#### Article 95 (Fiscal system)

1. The fiscal system shall be structured with a view to satisfying the financial needs of the State and the remaining public entities, attaining the objectives of the economic and social policies of the State and guaranteeing a fair distribution of income and wealth.
2. Taxes shall be levied by law which shall determine the tax base, the rates, the fiscal benefits and the tax payers guarantees.
3. No one shall be obliged to pay taxes which have not been levied in accordance with the Constitution or whose determination and payment are not made in accordance with the law.
4. The tax base shall not be increased, nor shall the rates be aggravated in the same financial exercise.

#### Article 96 (Non-retroactivity of the Fiscal Law)

Fiscal Law shall not have retroactive effect, unless it has a more favorable content for the tax payer.

#### Article 97 (Budget)

1. The State budget shall be unitary and shall specify the revenues and expenditures, breaking them down in accordance with the respective organic and functional classification, shall respect the rule of annuality and publicity and shall be drawn up in such a form that all expenditures contemplated therein are effectively covered by revenues.
2. The budget may be structured along programmes or projects which may be pluriannual and in this case the expenditures concerning the year to which they relate shall be set out in the budget.
3. The economic year coincides with the civil year.
4. The law will define the rules for the budget implementation and the criteria which shall preside over its changes during the implementation period.

#### Article 98 (The budget preparation)

1. The proposal for the State budget shall be presented by the Government and voted on by the National Assembly within the dates established by law.
2. The law shall establish the process to follow, whenever it is not possible to comply with the dates for the presentation of or for the vote on the budget.
3. The budget proposal shall be accompanied by reports justifying the revenues and expenditures, the variations of such revenues and expenditures, as well as other elements that may be necessary.

#### Article 99 (Budget monitoring)

The implementation of the State budget shall be monitored by the Court of Audit and by the National Assembly which shall consider and approve the State General Account, in consultation with such Court.

### **PART IV -- EXERCISE AND ORGANIZATION OF POLITICAL POWER**

**TITLE 1 -- FORMS OF EXERCISE OF POLITICAL POWER**

**CHAPTER I -- GENERAL COMMON PRINCIPLES**

Article 100 (Electoral Census)

1. The right to elect or to be elected to any political office shall only be exercised by the elector who is validly registered in an electoral census on the date of the elections or of the presentation of his candidature.
2. The electoral census shall be official, compulsory, permanent and the same for all elections that are