



▶ Social Protection in Action: Building Social Protection Floors for All

2022

Cabo Verde: Extending social protection by anchoring rights in law

Summary

Drawing on a legal framework that is in line with international social security standards, Cabo Verde has achieved a significant extension of legal and effective social protection coverage. The Constitution and additional legislation play an important role in promoting the development of a social security national legal framework and its implementation. The system is organized into three pillars: social assistance, compulsory social insurance and complementary voluntary insurance. The combination of contributory and non- contributory schemes forms a system that stands out as one of the most comprehensive and inclusive in sub-Saharan Africa.

Main Lessons Learned

- ▶ Placing social security in the Constitution and the further promotion of the right to social security through a strong legal framework led to the establishment of a comprehensive social protection system that is in line with international social security standards and human rights principles.
- ▶ A rights-based approach allows citizens to fulfil their obligations and claim their rights to social security by requiring the state to protect, fulfil and promote social protection guarantees, independently of the government in office.
- ▶ Cabo Verde's experience shows that establishing a solid legal framework is an efficient move towards the extension of social protection legal and effective coverage.

Social Protection Floors Recommendation, 2012 (No. 202)

SDG 1.3 aims to implement nationally appropriate social protection systems and measures for all, including floors, and by 2030, achieve substantial coverage of the poor and the vulnerable.

Social protection floors (SPFs) guarantee access to essential health care and basic income security for children, persons of working age and older persons. 187 countries have adopted the Social Protection Floors Recommendation, 2012 (No.202), to achieve universal social protection.

Cabo Verde's experience is aligned with the guiding principles of the Social Protection Floors Recommendation, 2012 (No. 202). More specifically, the present study explains how some of its principles have been applied, notably "universality of protection, based on social solidarity" (Para. 2(a)) and "entitlement to benefits prescribed by national law" (Para. 2(b)).

The right to social security in the Cabo Verdean Constitution

The Constitution of 1992 laid down the foundations of the social protection legal framework of Cabo Verde, by recognizing social security as a fundamental right (art. 70). It guarantees that all citizens have the right to social security in the event of unemployment, sickness, disability, old age, survivorship and in all situations of lack or reduction of the means of subsistence or capacity to work. The Constitution also establishes the State's responsibility for the functioning of the system, its promotion, regulation and supervision, and its participative administration, with a view to achieving social solidarity, as enshrined in the Constitution.

In article 177, the Constitution of Cabo Verde also confers exclusive legal competence on the Parliament for the regulation of social security, establishing rights-based protection for social security rights and providing stability to the system.

The value and protection provided by the Constitution is the foundation of the rights-based approach taken by Cabo Verde regarding social protection and the nation's commitment to these rights. Based on this strong framework, the country has progressively moved towards universal social protection in recent decades.

The system itself is created and regulated by Law No. 131/V/2001, the Basic Social Security Law, which encompasses both non-contributory and contributory policies and schemes, bringing them all under the auspices of social protection.

Legal architecture of the Cabo Verdean social protection system

The social insurance law includes workers in all forms of employment and provides the same type of package, the main difference being with respect to unemployment insurance and family benefits, which are not available for the self-employed. Both employers and workers (including domestic workers) contribute to the system (15 and 8 per cent, respectively). However, with the inclusion of the unemployment benefit, contribution rates were adjusted to 14 and 8.5 per cent, respectively. For self-employed, the rate is 19 per cent.

In addition to contributory and non-contributory benefits, the country is also building a care system, also embedded

in law, which provides different care services to the population.

Access to healthcare

The Constitution specifically guarantees universal access to health, irrespective of a person's economic circumstance, in article 71.

The Basic Health Law (Law No. 41/VI/2004) regulates the National Health Service (SNS), the body that brings together all the entities involved in the provision of health services. It is under the supervision of the Ministry of Health, which is responsible for formulating health policies, as well as regulating and controlling the provision of health services, with the assistance of advisory councils.

Decree-Law No. 10/2007 establishes the services provided by the SNS, including inpatient and outpatient, generalized and specialized care hospitalization and maternity care, as well as fees and co-payment rates. Decree-Law No. 10/2007 also defines the Essential Primary Care Package, which is provided to all citizens free of charge or at a reduced cost and includes the detection and treatment of communicable and chronic diseases, as well as childhood healthcare and reproductive health.

The Social Assistance Pensioners Mutual Fund, created by Decree-Law No. 2/2006, provides additional benefits to pensioners covered by the non-contributory social pension scheme, including subsidies for the purchase of essential drugs not available in public pharmacies, limited to 3,750 Cape Verdean escudos (US\$35) per year, as well as a funeral subsidy in the amount of 7,000 escudos (US\$79). Decree-Law No. 2/2006 also foresees for the future, under conditions of improved financial reserves, the provision of preventive, curative and rehabilitative healthcare. Social pensioners can access these health benefits after a period of six months of contributions, set at a rate of 2 per cent of their social pension. The benefits are paid by the National Centre of Social Pensions (CNPS), created by Resolution No. 6/2006 and expanded by Decree-Law No. 46/2020, which is an autonomous public institution responsible for the integrated management of Cabo Verde's non-contributory social benefits.

Access to healthcare for employees in the public and private sectors, self-employed and domestic workers, is regulated by the Basic Social Security Law (Law No. 131/V/2001), the main legal text underpinning the social protection system of the country. Together with Decree-Law No. 5/200, it regulates the implementation of the

contributory social insurance scheme, whereby active and retired insured persons and their dependants have access to medical care (general and specialist), hospitalization, medicine, physiotherapy treatments, prosthetics and orthopaedic appliances, as well as transportation and other medical care under the SNS but financed through the National Institute of Social Security. In order to benefit from medical care, workers need to be affiliated to the scheme for a minimum of four months and to have worked at least 30 days in the three months preceding the month of the occurrence of the contingency. Benefits are offered without limit of duration during the entire period of treatment. Services are provided through public hospitals and other structures, as well as private clinics and practitioners. All these non-pecuniary benefits are available to insured workers and their families.

This legal framework, which combines contributory and non-contributory mechanisms, together with the SNS health service provision, has allowed for a significant expansion of the country's legal health coverage, including to self-employed and domestic workers. Effective coverage remains at the centre of recent debates, particularly because of the differences in the services available in the various islands of Cabo Verde. However, it should be noted that a health evacuation service exists both within and outside Cabo Verde, which includes a monetary benefit and is anchored in law.

Social protection for children and families

Workers employed in the formal economy and their family members, in addition to retirees and dependants, receive family benefits from the mandatory contributory social security scheme, based on Basic Social Security Law No. 131/V/2001 (art. 27) and Decree- Law No. 5/2004 (arts 23 and 30).

The law guarantees family allowance benefits in the case of families with children under the age of 15 or children continuing their formal education until the age of 25, or for an indefinite period in the case of incapacity to work (Decree-Law No. 5/2004, arts 23 and 30). In addition, parents of the insured who do not have their own means of subsistence may also receive benefits. Benefits are allocated monthly and continuously as long as the

requirements for receiving them are met. Benefits are limited to four dependants. The law does not provide a minimum period of affiliation for the receipt of the family benefit (Decree-Law No. 5/2004, art. 32).

Law No. 38/VIII/2013 for the non-contributory part of the social protection system also stipulates the coverage of children living in vulnerable and poor families and with disabilities by the social pension (with all the other health benefits provided through the mutual fund, as already mentioned in section A above). There is also "social assistance" in education, which allows the provision of hot meals in schools and the support of kits with the academic material needed for the year. It is important to mention that school education is mandatory up to the eighth grade and is provided free of charge.

Recently, through Decree-Law No. 41/2020, a cash transfer was institutionalized – the Social Inclusion Income (RSI) – with the objective of ensuring that the poorer and more vulnerable families have resources that contribute to satisfying their minimum needs and fostering their progressive social and labour inclusion. This cash transfer specifically targets women with children up to 15 years old. In addition to the cash benefit, it includes a family follow-up programme and a productivity inclusion programme to enhance employability and labour market integration. The RSI was established to fill the large gap that previously existed regarding children and families' benefits. In 2017, there were 1,355 RSI beneficiaries. But after a drop by almost one quarter of that number the following year, in 2019 it rose again to 1,446. In 2020, there were 28,297 qualified beneficiaries.

Social protection for women and men of working age

The Basic Social Security Law (Law No. 131/V/2001), Decree-Law No. 5/2004 provide the main legal foundation for the social protection of the working-age population in Cabo Verde and Decree-Law No. 49/2009.

According to this law (art. 40), maternity benefit is paid during the 60 days in which female workers are legally away from their activities, in accordance with the Labour Code (Law No. 5/2007 and Decree-Law No. 5/2010).¹ Legal protection also extends to insured self-employed and domestic workers, but not to informal economy workers. In

¹ This would fall below the minimum requirement set out in Convention No. 102, which requires that maternity benefits be paid for a minimum of 12 weeks.

In addition to the maternity benefit, the law grants a nursing allowance during the six months after birth. Cabo Verde provides medical benefits in the case of maternity for antenatal and postnatal care, as well as for hospitalization under the Basic Social Security scheme for contributing women or spouses of employed men and otherwise under the SNS.

Cabo Verde’s statutory social security system provides for cash benefits in cases of temporary incapacity for work not arising from an occupational accident or disease (Decree No. 5/2004, art. 46). The personal scope of application includes workers in the formal economy, public employees, domestic workers and the self-employed. The sickness benefit, which corresponds to 70 per cent of pre-contingency earnings, is paid for a maximum of 1,095 days,

or 90 days for active retirees, after a waiting period of three days, in line with the Social Security (Minimum Standards) Convention, 1952 (No. 102). In order to receive sickness benefits, at least four months of enrolment and a minimum of 30 days of effective contribution are required in the three months preceding the contingency.

The Basic Social Security Law (Law No. 131/V/2001) also covers employees against the risks of disability and loss of the breadwinner. In the case of permanent invalidity with a loss of capacity for work equivalent to two thirds and five years of contributions, a disability benefit is paid in conformity with Convention No. 102 (Decree No. 5/2004, Article 69). Decree No. 5/2004 also provides the dependants of a deceased insured person with a

► **Table. Overview of Cabo Verde’s legal framework for social protection**

	Health	Children and families	Working age	Old age
Workers in the informal economy	Law 41/IV/2004	Law 131/V/2001 Decree No. 5/2004	Law 131/V/2001 Decree No. 5/2004 Decree-law No. 84/78 Decree-law No. 15/15	Law 131/V/2001 Decree No. 5/2004 Decree-law No. 24/2006
Domestic workers, self-employed workers			Decree-law No. 48/2008 Decree-law 49/2009	
Workers in the informal economy				
Poor and vulnerable		Decree-law No. 2/2006 ¹ Decree-law No. 23/2021 Resolution No. 23/2021	Law No. 32/VIII/2013 Resolution no. 143/207 Implementing Decree No. 7/2018 Decree-law No. 41/2020 Resolution No. 81/2020 Decree-law No. 54/2020	Decree-law No. 2/20062 Implementing Decree No. 7/2018 Decree-law No. 41/2020 Resolution No. 81/2020

► ¹ Paid only for pensioners in the non-contributory scheme. ² Disability benefit

► Source: Author’s elaboration.

survivor's pension and a funeral grant (arts 83 and 36). Children under 18 years of age (or up to 25 if studying or without age limit for children with disabilities) are eligible, in addition to the widow or widower.

Under Decree-Law No. 24/2006, superseded by Law No. 38/VIII/2013, people with disabilities aged 18–60 with a family income below the extreme poverty line are entitled to a social pension. The decree also grants survivors' pensions to the dependants of a deceased person who was in receipt of a social pension. The dependants, including the spouse or partner and dependent disabled heirs, are entitled to receive the fixed amount of 6,000 escudos (US\$55) for 12 months if they are younger than 45 years and for life if older.

As of 1978, Decree-Law No. 84 and the more recently updated Decree-Law No. 58/2020 makes employment injury insurance compulsory for employed workers and self-employed, members of cooperatives, apprentices and trainees, as well as volunteer workers. Insured workers can benefit from temporary incapacity and permanent disability benefits, as well as a survivor's pension and funeral grant. However, employment injury insurance is managed by private insurance companies.

Decree-Law No. 15/2016 introduced a contributory unemployment insurance scheme in Cabo Verde for formal sector workers only. In the case of involuntary unemployment, insured workers receive 65 per cent of their average salary in the six months before unemployment (up to a maximum of 2.5 times the national minimum wage) for a duration of two or three months if the insured contributed more than 24 months of contributions. The benefit is paid for an additional month for unemployed persons older than 35 and an additional two months for those older than 50.

While Cabo Verde has made significant progress with regard to strengthening its social protection legal framework covering many kinds of workers – formal sector workers (private and public), self-employed and domestic workers, although not informal economy workers – effective coverage remains a challenge under both contributory and non-contributory schemes (see Table).

Social protection for older women and men

Cabo Verde has made great strides in recent years towards a system of universal pension coverage, establishing a legal framework, in line with Convention No. 102 and Recommendation No. 202, for various old-age coverage approaches.

- Social pensions are granted to persons aged 60 or older who do not participate in the contributory scheme and live below the poverty line. Provided by the CNPS, these pensions guarantee basic income security and are fully financed by the national State budget. Decree-Law No. 24/2006² implementing and regulating social pensions was a milestone towards achieving universal pension coverage.
- Compulsory social insurance (Law No. 131/V/2001) was established for insured persons aged 60 for women and 65 for men, with at least 12 years of contributions (15 years of contributions as of 2023).
- A complementary voluntary pension insurance scheme is under development.

Access to old-age pensions/income guarantees for survivors was extended to Cabo Verdeans living outside the country through Decree-Law No. 54/2020. In 2021, this pension would cover about 1,300 pensioners living outside Cabo Verde, particularly in five African countries.

While the three schemes jointly provide legal coverage to 84.8 per cent of all older persons above retirement age, there remain concerns about the adequacy of the pensions to provide income security to older persons (ILO 2021).

Towards a comprehensive social protection legal framework based on international social security standards

The legal framework of Cabo Verde is based on essential principles that guide the State's social protection-related policies and schemes and echo those entrenched in

² Superseded by Law No. 38/VIII/2013.

international social protection standards. These are embedded in the provisions of the law and elaborated in article 6 of the Basic Social Security Law, in particular the principles of universality, adequacy, equality, solidarity and State responsibility. To fulfil these principles, the legal framework has developed the social protection system both in the horizontal dimension (providing basic social protection to the full population) and the vertical dimension (providing comprehensive and adapted benefits).

Cabo Verde has demonstrated that with political will and a balanced combination of contributory and non-contributory benefits anchored in law and its institutionalization, it is possible to take remarkable steps towards the achievement of universal social protection. The 2009 Decrees-Laws Nos. 48 and 49 were fundamental in this process as they included self-employed and domestic workers under the general compulsory social insurance regime, instead of creating parallel mechanisms of social protection. In addition, a simplified system of tax and social security contribution payment was created through Law No. 70/VIII/2014 in order to increase micro and small enterprises' incentives to contribute.

At the international level, Cabo Verde ratified the Equality of Treatment (Social Security) Convention, 1962 (No. 118) in 1987 and Convention No. 102 in 2020, becoming the first African Lusophone country to take this important step to protect and develop social protection rights. This will also be critical in guiding the country in the progressive achievement of universal social protection, in line with internationally agreed benchmarks.

Impact

In the last decade, in order to implement the legal framework described above, Cabo Verde has invested in its social protection system through more effective and efficient allocation of domestic resources. As a result, social protection has become increasingly important on the political agenda and in the way it is viewed in the context of economic growth. More and better investments in social protection have yielded positive results in national socio-economic indicators, such as increasing the effective social security coverage of the population of Cabo Verde from 35.1 per cent in 2016 to 42.9 per cent in 2020.

The robust legal framework has also translated into improvements at operational levels. A relevant example of this is the Single Social Registry (CSU), which was established to identify, register and maintain up-to-date information, especially related to current and potential social assistance beneficiaries. In addition, the establishment of the CSU has also led to improved coordination between the social protection system and other institutions by linking the management information systems of social insurance, social assistance and healthcare providers, among others (water and electricity access to social tariffs, housing and so on).

Way forward

Despite the progress made, Cabo Verde faces many challenges. First, the COVID-19 crisis had a very substantial impact on the national economy and its capacity to mobilize domestic resources for the extension of social protection.

When the COVID-19 crisis hit, the robust legal framework was a key factor that allowed the Government to provide a timely and adequate response. For instance, the creation of the Emergency Social Inclusion Income was based on reinforcement of the pre-existing RSI, which was initially established in Decree-Law No. 41/2020.

In addition, the inclusion of self-employed workers under the general regime allowed the Government to quickly identify beneficiaries for the emergency Solidarity Income Benefit who had previously had no access to the unemployment or basic lay-off benefits.

In the future, the Government needs to ensure that improvements in legal coverage will translate into higher effective coverage. In addition, there is also a need to ensure the inclusion of workers in the informal economy into the country's contributory schemes. Financial sustainability will also be a challenge, considering that the most recent extension of coverage of cash transfers (targeting up to 29,000 poor households) is being made through loans from international financial institutions and that the social insurance system faces increased expenses due to the COVID-19 pandemic.

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