



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

FORMS OF INTERNATIONAL JUDICIAL COOPERATION IN CRIMINAL MATTERS

LAW Nº6/VIII/2011

AUGUST 29th

The National Assembly approves, by mandate of the people, under the terms of the point b) of article 175º of the Constitution of the Republic of Cabo Verde, the following:

TITLE I

GENERAL PROVISIONS

CHAPTER I

Subject and sphere of application, general principles of international judicial cooperation in criminal matters.

Article 1º

Object

1. This law regulates the forms of international judiciary cooperation in criminal matters, namely:
 - a) Extradition;
 - b) Transfer of criminal proceedings;
 - c) Execution of penal sentences;
 - d) Transfer of persons sentenced to punishment or custodial security measures;
 - e) Surveillance of sentenced or conditionally released persons;
 - f) Mutual judiciary help in penal matters.
2. The provisions of the prior point are applied, with due adjustments, to the cooperation of the Republic of Cabo Verde with international judiciary entities established by treaties or conventions which are binding for the Cape Verdean State.
3. This law is subsidiarily applicable to cooperation in terms of penal infringements, at the stage before administrative proceedings, as well as offenses which constitute unlawful transgressions, whose processes allow for judicial appeal.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA
Article 2º

Sphere of application

1. The application of this Law is subordinated to the protection of the interests of sovereignty, security, public order, and other interests of the Republic of Cabo Verde, as defined by the Constitution.
2. This Law does not confer upon other States the right to demand from the Republic of Cabo Verde any of the forms of cooperation foreseen in number 1 of the prior article, when these may endanger the protection of the interests from nº1 of this article.

Article 3º

Reciprocity Principle

1. International cooperation in criminal matters is subject to the reciprocity principle.
2. In the sphere of its attributes, the Ministry of Justice requests a guarantee of reciprocity if circumstances demand as much and other States can provide it, within the limits of this law.
3. The lack of reciprocity shall not preclude the fulfillment of the following cooperation request:
 - a) When the nature of the fact or the need to combat certain serious forms of crime;
 - b) When it contributes to improving the situation of the accused or his/her social reintegration;
 - c) When it contributes to clarify facts imputed to a Cape Verdean citizen.

Article 4º

Prevalence of international treaties, conventions and agreements

1. The forms of Judicial cooperation in penal matters is governed by the norms arising from international treaties, conventions and agreements, which bind the Cape Verdean State and, in their absence or insufficiency, by the provisions of this law.
2. Code of Criminal Procedure legislation is subsidiarily applicable.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA
Article 5º

Definitions

For the effects of this Law, the following are considered:

- a) **Suspect:** any person who is being suspected of committing or participating in an offence;
- b) **Defendant:** any person facing a process or who has been accused or instruction is required;
- c) **Convict:** a person who has been sentenced for a criminal act or upon whom a judicial decision has been preferred recognizing his guilt, albeit conditionally suspending the imposition of sentences or imposing privative criminal sanction of freedom whose execution has been declared suspended, in all or in part, on the date of sentencing or subsequently, or substituted by a non-incarceration sentence;
- d) **Criminal sentence:** any punishment or preventive security measure by remand, monetary punishment or other non-custodial punishment, including additional penalties.

Article 6º

General negative requirements of international cooperation

1. The cooperation request shall be refused if:
 - a) The process does not satisfy or does not respect the requirements of international treaties applicable to the Republic of Cabo Verde;
 - b) There are grounded reasons to think that the cooperation is being requested to persecute or punish a person by virtue of their nationality, ethnicity, race, sex, language, religion, political or ideological convictions, education, economic situation, social condition or if this person belongs to a specific social group;
 - c) There is risk of aggravated procedural situation of a person for any of the reasons mentioned above;
 - d) This may lead to trial by an extraordinary court or respect the execution of a sentence passed down by a court of this nature;
 - e) When the offence is punishable by death or under the grounded assumption that it may result in torture, inhuman treatment or other practices which may result in irreversible injuries and the breach of a person's integrity;



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

- f) When the offence corresponds to a prison sentence or security measure of perpetual nature of indefinite time;
 - g) When there is a possibility that the person may be subjected to torture, inhuman, degrading or cruel treatment.
2. The provisions of subparagraphs e) and f) of the previous number do not impede the cooperation:
- a) If the State which makes the request by an irrevocable and binding act to its courts or other competent entities for the execution of the sentence has previously commuted the death penalty or another that may result in irreversible damage to the integrity of the person or has taken out perpetual or indefinite duration of the sentence or security measure;
 - b) If the extradition has to do with crimes corresponding to the punishment or security measure that is deprived or restrictive of the perpetrator's rights under the law of the requesting State for a perpetual or indefinite duration, the requesting State shall offer guarantees that such punishment or security measure shall not be enforced;
 - c) If the requesting State accepts the conversion of the same sentences or measures by a Cape Verdean Court in accordance with the provisions of Cape Verdean law applicable to the crime that causes conviction;
 - d) If the request complies with the aid provided for in Article 1º (1) (f), requesting on grounds of the relevance of the act for presumed non-application of such penalties or measures.
3. For the purposes of assessing the sufficiency of the guarantees referred to in paragraph b) of the preceding paragraph, considering, in particular the law and practice of the requesting State, the possibility of non-application of the sentence, situation of the person sought and the granting of conditional release, as well as the possibility of pardon, commutation of sentence or similar measure provided for in the legislation of the requesting State.
4. The cooperation request shall also be refused when reciprocity is not guaranteed, except as provided for in article 3º (3).
5. When the extradition is refused based on paragraph 1 (d), (e) and (f), cooperation mechanisms with international judicial authorities shall apply in accordance with article 1º (2).



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA
Article 7º

Refusal due to the nature of the offense

1. The request is also denied when the process with regard to the offense constitutes:
 - a) A political or similar offense, as per the concepts of Cape Verdean law;
 - b) Military crime which is not at the same time foreseen by common penal law.
2. The following are not considered of political nature:
 - a) Genocide, crimes against Humanity, war crimes and serious offenses as per the international conventions, even if Cabo Verde does not belong;
 - b) The acts specified by the International Convention against torture and other cruel, inhuman or degrading treatment;
 - c) Severe offenses due to an attack against the life, physical integrity or freedom of persons who enjoy international protection, including diplomatic agents;
 - d) Acts of air and sea piracy;
 - e) Any other crimes whose political nature is removed by treaty, convention or international agreement to which Cabo Verde is a party.

Article 8º

Optional refusal of international cooperation

1. Cooperation may be denied when the fact that motivates it is the subject of pending proceedings within the jurisdiction of a Cape Verdean judicial authority.
2. Cooperation may also be refused when the acceptance of the request has serious consequences for the person concerned, regarding his/her age, health or other personal reasons.

Article 9º

Termination of criminal proceedings

1. Cooperation is not admissible if, in Cabo Verde or another State where proceedings have been instituted for the same offense:
 - a) The trial has terminated with an acquittal or decision of final closure;
 - b) The conviction has been served or cannot be met as per the law of the State where it had been passed;



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

- c) The proceedings are closed for any other reason, except for provisions in an international convention, not hindering cooperation on the part of the required State.
2. The provisions of points a) and b) are not applied if the foreign authorities formulate the request as a warrant for sentencing review purposes and the grounds for such action are identical to those admitted by Cape Verdean law.
3. The provisions of a) of nº1 is not an obstacle to cooperation based on the reopening of a filed lawsuit as provided for by law.

Article 10º

Competition between cases of admissibility and inadmissibility of cooperation

1. If the act imputed against the person against whom the procedure is established should be foreseen in various regulations of Cape Verdean penal law, the cooperation request may only be processed in the part regarding the offense or offenses for which the application is admissible and based on which the requiring State shall provide guarantees of observing the established cooperation conditions.
2. Cooperation is, however, excluded if the offense is foreseen by various Cape Verdean or foreign legal provisions and the request may not be satisfied by way of a legal provision which covers it entirely and constitutes grounds for complete refusal of cooperation.

Article 11º

Relevance of the offense

Cooperation may be denied if the minor importance of the offense does not justify this.

Article 12º

Secrecy protection

1. In the execution of a cooperation request required from the Republic of Cabo Verde the Penal Procedure Code provisions apply, together with complementary legislation regarding refusal to testify, seizures, wiretaps and professional or State secrets and other cases where secrecy is guaranteed by law.
2. The provisions of the preceding paragraph apply to information that, according to the request, must be provided by persons not involved in foreign criminal proceedings.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA
Article 13º

Applicable Law

1. The following produce effects in the Republic of Cabo Verde:
 - a) The reasons of interruption or suspension of prescription as per the legislation of the requiring State;
 - b) A complaint submitted in due time to a foreign authority, when it was likewise requested by Cape Verdean law.
2. If Cape Verdean law solely requires a complaint, no criminal sanction may be imposed or executed in Cabo Verde without a complaint or if the respective party desists from said complaint.

Article 14º

Attribution of detention

1. Preventive detention imposed abroad or detention decreed abroad as a consequence of one of the cooperation forms foreseen in this Law are taken into account by the Cape Verdean process or calculated into the punishment, under the terms of the Penal Code, as if the detention would have taken place in the Republic of Cabo Verde.
2. For the preventive detention or time already served to be considered in Cabo Verde, the necessary information is provided.

Article 15º

Indemnification

Cape Verdean law is applied due to illegal detention or non-justified prison or other damages imposed on the suspect and defendant, namely:

- a) In the course of proceedings initiated in Cabo Verde for the carrying out of a cooperation request formulated for the Republic of Cabo Verde;
- b) In the course of proceedings initiated abroad for the carrying out of a cooperation request formulated by Cape Verdean authorities.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA
Article 16º

Contest of requests

1. If the cooperation were to be requested by various States, relative to the same or different offenses, the request is granted in favor of the State which, taking into account the circumstances of the case, assures the best conditions for procuring justice and the social rehabilitation of the suspect, defendant or convict.
2. The provisions of the prior point:
 - a) Are ceded given the prevalence of international jurisdiction, in the cases as mentioned in number 2 of article 1º;
 - b) Are not applicable to the cooperation form specified in f) of number 1º of article 1º.

Article 17º

Specialty rule

1. A person who, as a consequence of an act of cooperation, appears in Cabo Verde to be included in penal proceedings as a suspect, defendant or convict may not be persecuted, judged, detained or subject to any other sanctions concerning their liberty due to the above presence in the national territory, which is different from that whence the cooperation request formulated by Cape Verdean authorities has been originated.
2. The person who, under the terms of the prior point, appears before foreign authorities may not be persecuted, detained, judged or subject to any other sanctions concerning their liberty due to the prior events and sentence for their exit from national Cape Verdean territory different than those originating the cooperation request.
3. Before authorizing the transfer mentioned in the prior point, the State formulating the request must provide necessary guarantees for compliance with the specialty rule.
4. The immunity referred to by this article is voided when:
 - a) The person in question, having the possibility of leaving Cape Verdean or foreign territory, does not do so within 45 days or returns voluntarily to said territories;
 - b) The State authorizing the transfer, with prior notification of the suspect, defendant or convict, agrees to derogate the specialty rule.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

5. The provisions of numbers 1 and 2 do not exclude the possibility of requesting extended cooperation for different offenses from that which is grounds for the request, by new request presented and formulated as per this Law.
6. In the case mentioned above, presenting a process stating the person benefited by the specialty rule is mandatory.
7. In the case of the request being presented to a foreign State, the process mentioned above is conducted by a Supreme Court of Justice.

Article 18º

Specific cases of specialty rule non-application

1. The immunity mentioned in numbers 1 and 2 of the above article ceases also when, by treaty, convention or international agreement to which the Republic of Cabo Verde is party, there is no grounds for the benefit of the specialty rule.
2. When the ceases immunity comes from the person who benefits from the specialty rule, with such waiver coming from a personal statement, before a judge, showing that the person in full awareness of the consequences of this act and voluntarily, with assistance of a lawyer, or in the case of a lack thereof, with the assistance of a named defender.
3. When the person in question must provide statements in Cabo Verde, in the case of the follow up to the request made towards the Republic of Cabo Verde or formulated by Cape Verdean authorities, and the statements are provided before a Supreme Court of Justice.
4. Without prejudice to the above provisions, the waiver of the person located in Cabo Verde as a result of a cooperation request by the Cape Verdean authorities is provided in proceedings where it shall have such effects, when Cape Verdean authorities, after the delivery of said person get to know supervening facts practiced by the person before such delivery.

Article 19º

Non bis in idem

If a cooperation request where accepted implying the delegation of the proceedings to foreign judicial authorities, proceedings due to the same offense which was grounds for the cooperation request cannot be initiated in Cabo Verde, nor can a sentence be executed whose grounds was the offense delegated to the foreign authorities.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA
CHAPTER II

GENERAL PROVISIONS OF THE COOPERATION PROCESS

Article 20º

Applicable Language

1. The cooperation request is accompanied by a translation into the official language of the State to which it is directed, except for a convention or agreement which may be signed by said State.
2. The provisions of the preceding paragraph shall apply to the request for cooperation addressed to Cabo Verde.
3. The decisions of admissibility or refusal of the cooperation request are notified to the State authorities who had formulated said request, under the terms of nº1.
4. The provisions of this article are applied to the documents which should accompany the request.

Article 21º

Processing the request

1. For the effects of receiving and processing the cooperation requests covered by this Law, and all communication concerning the same, the Attorney General's Office is designated as Central Authority.
2. The General Prosecutor submits a cooperation request formulated for Cabo Verde to the Minister of Justice in order to decide on its admissibility.
3. The cooperation request formulated by a Cape Verdean authority is sent to the Minister of Justice by the General Prosecutor.
4. The provisions of number 1 do not prejudice direct contact regarding the cooperation requests as stated in f) of number 1 of article 1º.

Article 22º

Forms of sending the request

1. When available, and by agreement between the requiring and required States, the adequate electronic media may be used, including fax, if authenticity and reliability of the request and reliability of the transmission data can be confirmed.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

2. The provision of the prior point do not prejudice the recourse to the methods foreseen in number 2 of article 30º.

Article 23º

Request requirements

1. The cooperation request should be simple and clear, so that the receiving party may easily address the issue and question, understand clearly the nature of the diligence requested and may carry it out in the most adequate way, with the document having to specify:
 - a) The authorities originating and the authorities receiving the request, with this designation being made in general terms;
 - b) The subject and reasons of this request;
 - c) The legal qualification of the offense which is grounds for the procedure;
 - d) The identification of the suspect, defendant or convict, of the person whose extradition or transfer is required and the witness or expert who should be asked for clarification;
 - e) The narration of the facts, including the place and the time of its practice, proportional to the importance of the act of cooperation that is intended;
 - f) The text of the legal provisions applicable in the State which formulates said request;
 - g) Any relevant documents to the request.
2. The documents do not require legalization.
3. Competent authorities may require that a formally irregular or incomplete request be modified or corrected, without prejudice to adopting corrective measures when these cannot wait for said corrections.
4. The requirements from f) of nº1 may be dispensed with when this a cooperation form referred to in f) of nº1 of article 1º.

Article 24º

Decision on admissibility

1. The decision of the Minister of Justice declaring the admissibility of the request is not binding for the judicial authorities.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

2. The decision which declares an international cooperation request to be inadmissible does not have any appeal.
3. The decisions referred to above refusing a cooperation request is communicated by the Central authority to the national or foreign authorities which have formulated it.

Article 25º

Internal competence in terms of international cooperation

1. The competence of Cape Verdean authorities to formulate a cooperation request or execute a request formulated towards the Republic of Cabo Verde is determined below.
2. The penal procedure code and relevant complimentary legislation are subsidiary applicable, as well as legislation on illicit misdemeanours.

Article 26º

Expenditure

1. The execution of a cooperation request is, as a rule, free.
2. It is thus the responsibility of the State or the international judicial entity which formulates it:
 - a) Indemnification and remuneration of witnesses and experts, as well as transport and accommodation costs;
 - b) Current costs of sending or delivery of objects;
 - c) Current costs of transferring persons to the territory of the requiring State or the seat of the international judicial entity;
 - d) The costs of transfer of a person to the territory of a foreign State or the seat of an international judicial authority for a third party State or the seat of this entity;
 - e) Costs of a teleconference, in compliance with a cooperation request;
 - f) Other costs considered relevant by the required State, in function of the human and technological means included in the carrying out of the request.
3. For the effects of a) of the above point, an advance may be deposited to the witness or expert, to be mentioned in the notification and to be reimbursed during the diligence.
4. By agreement between the Republic of Cabo Verde and the foreign State or the international judicial authority interested in the request, the provisions of nº2 may be derogated.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA
Article 27º

Transfer of persons

1. The transfer of detained or convicted persons for detention sentences which should be conducted in compliance with decisions made in line with this Law are carried out by the prison services in agreement with the foreign State authorities where the requested person is located or to where he/she is to be transferred, with regard to means of transport, date, place and time of delivery.
2. The transfer is conducted in the shortest time possible after the decision date.
3. The provisions of prior points are applied, with the necessary adjustments, to transfers with regard to the request by an international judicial authority.

Article 28º

Delivery of objects and valuables

1. If the cooperation request with regard to the delivery of objects or valuables, exclusively or as compliance with another request, these can be sent when they are not indispensable proof constituent of said offenses, whose knowledge should be the competence of Cape Verdean authorities.
2. The possibility of deferred shipment or under pledge of restoration is provided.
3. Good faith of third persons are protected, and those of the legitimate owners or holders or of the State when the objects or valuables may be declared lost in their favor.
4. If opposed, the objects or valuables may only be sent after a favorable decision of the competent authority passed down in a legal sentence.
5. In the case of an extradition request, the delivery of objects mentioned in number 1 may be conducted even if the extradition is not executed, specifically due to the death or escape of the person required.

Article 29º

Urgent provisional measures

1. In the case of emergency, foreign judicial authorities may contact Cape Verdean judicial authorities directly, or with the intermediation of the "International Criminal Police



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

Organization” (INTERPOL) or the competent central bodies for international police cooperation designated for such effects, in order to request the adoption of a cautionary measure or to execute an act which does not allow for delays, explaining the reasons for the emergency and observing the procedures from article 23º.

2. The request is transferred by post, email or fax or any other medium which allows written record and which is admissible as per Cape Verdean law.
3. Cape Verdean judicial authorities, if they consider the request to be admissible, shall fulfil it, without prejudice of submitting to the approval of the Minister of Justice, by the Central Authority, the matters which under this law are subject to this prior approval or ratification.
4. If, under the terms of this article, the cooperation includes Cape Verdean and foreign authorities of different types, the request is executed through the Central authority.

Article 30º

Request destination

1. The definitive decision of the judicial authority of not heeding to the cooperation request is communicated to the foreign authorities who had formulated it, by means stated in article 21º.
2. Executing a cooperation request, the judicial authorities send, if this were the case at hand, the respective fees to the foreign authorities, under the terms foreseen in article 21º.



**MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA**

TITLE II

EXTRADITION

CHAPTER I

PASSIVE EXTRADITION

SECTION I

CONDITIONS FOR EXTRADITION

Article 31º

Purpose and grounds of extradition

1. Extradition may be carried out for the purposes of penal proceedings or for complying with a sentence or detention measure for a crime whose competence shall be vested in the requiring State's courts.
2. For any of the effects mentioned above, the delivery of the claimed person is only admissible in the case of a crime, even attempted, punishable by Cape Verdean law and that of the requiring State with a prison sentence or custodial measure of a maximum duration of not less than one year.
3. If the extradition should be based on various offenses, all of this punishable by the law of the requiring State and Cape Verdean law with a prison sentence and if any of these were not to meet the requirements mentioned above, extradition may also be granted for the rest of the offenses.
4. If it were to be requested for a prison sentence, extradition may be granted if the time to be served should be no less than six (6) months.
5. The provision of the points above are applicable, with due adjustments, to cooperation implying the extradition or delivery of persons to international judicial entities referred to in number 2 of article 1º of this Law.
6. The provisions of this article are not an obstacle when the minimum limits are lower as established by treaty, convention or agreement to which Cabo Verde is party.

Article 32º

Cases in which extradition is excluded

1. Apart from the cases specified in 6º to 8º, extradition is excluded when:

*C.P. n.º 268, Praia, Cabo Verde – Telef: +238 2615748; Fax: +238 2616884
www.ministeriopublico.cv*



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

- a) The crime has been committed in Cape Verdean territory;
 - b) Under the terms and with the limits constitutionally foreseen, when the person claimed has Cape Verdean nationality;
 - c) When the person claimed has been tried without any offense which gave rise to the extradition request, unless the laws of the requesting State provide him/her with the possibility of bringing an appeal or re-trial.
2. When extradition had been denied based on the points a) and b) of the preceding paragraph or e) and f) of article 6º (1), penal proceedings initiated as for the offenses which are grounds for the request, requiring from the requiring State the necessary elements.
 3. Under the terms of the previous paragraph, the judge may impose precautionary measures that appear appropriate.
 4. The national status is assessed at the time of the decision on extradition.
 5. Special agreements, under military or other alliances, may admit military crimes as a reason for extradition.

Article 33º

Crimes committed in a third party State

In the case of crimes committed in the territory of State other than the requiring State, extradition may be granted when Cape Verdean law confers jurisdiction due to circumstances or when the requiring State proves that the other State is not claiming the agent of said offense.

Article 34º

Re-extradition

1. The requiring State may not re-extradite to a third party State the person delivered under extradition.
2. The prohibition from the above point is voided when:
 - a) Under the terms established by the extradition request, such authorization was requested and granted, with a prior hearing of the extradited party; or



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

- b) The extradited party, having the possibility of leaving the territory of the requiring State, failed to do so in 45 days or, having left it, returned voluntarily.
3. For the effects of a) from the point above, the statement of the claimed person on his extradition may be requested.
4. The re-extradition prohibition also is voided when, by treaty, convention or international agreement to which Cabo Verde is party, the required State's consent is not required. When the effect of the provision from the above point stems from the person in question, the following point is applied.
5. The statements of the claimed person, made as per number 3 and 4, are made before the Supreme Court of Justice, observing, as per number 4, the formalities foreseen in article 17º.

Article 35º

Deferred extradition

1. The existence in Cape Verdean courts of a penal procedure against the claimed person is not an obstacle for re-extradition or if due to the same person serving a prison sentence due to various offenses which are grounds for the request.
2. In the cases mentioned above, the delivery of the extradited person may be deferred until the proceedings or sentence have been served.
3. Delivery may also be delayed due to verification, by a medical expert, of an illness which endangers the life of the person to be extradited.

Article 36º

Temporary delivery

1. In the case of number 1 of the prior article, the claimed person may be temporarily delivered for the execution of proceedings, namely the trial, that the requiring State show that delay cannot be sustained without severe damage, provided this does not hinder the progress of the proceedings in Cabo Verde and the requiring State undertaking that, after the end of such diligence, the claimed person shall be returned without any conditions.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

2. If the person delivered temporarily were to serve a sentence, the execution of said sentence is suspended from the date this person had been delivered to the requiring State up to the date of his restitution to Cape Verdean authorities.
3. However, the imprisonment sentence resulting from foreign proceedings shall not be computed.
4. In the case of delivery under the terms of the prior article, authorization or temporary delivery is processed as an extradition request, exclusively with a view of assessing, by Supreme Court of Justice, the criteria stated in number 1.
5. For the purposes of the decision provided for in the previous paragraph, the Supreme Court of Justice consults with the court where the person is and with the Minister of Justice.

Article 37º

Competing extradition requests

1. In the case of various extradition request for the same person, the decision about the request to be prioritized shall consider:
 - a) Whether the requests regard the same offense, or place where the offense took place or the main offense was conducted;
 - b) If the requests regard different offenses, the severity of the offense, according to Cape Verdean law, on the date of request, the nationality or residence of the extradited party, and other specific circumstances, namely the existence of a treaty or the possibility of re-extradition between requiring States are taken into account.
2. The above provisions are understood without prejudice to the prevalence of international jurisdiction in the cases of number 2 of article 1º.
3. The provisions of the above points are applicable, with due adjustments, for the effects of maintaining prior arrest.

Article 38º

Provisional detention

1. In emergency cases, and as a prior act before an extradition request, provisional detention for the person to be extradited may be requested.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

2. The decision on detention and its upkeep is made in accordance with Cape Verdean law.
3. The cooperation request shall consist of the following elements:
 - a) The warrant or provisional arrest warrant or equivalent document against the claimed person;
 - b) The indication of the Authority that ordered the provisional arrest;
 - c) A copy of the decision ordering provisional arrest or conviction;
 - d) A summary of the elements of the offense, with the time and place specified, referring to applicable legal norms;
 - e) A copy of the law of the requesting State which lays down the conditions of pre-trial detention;
 - f) The available data about the identity, nationality and location of the person.
4. In the transfer of the request the provisions of article 29º are observed.
5. Provisional detention ceases if the extradition request has not been received within 18 days from the start of said detention, with a possible prolongation up to 40 days if acceptable reasons, invoked by the requiring State, should justify this.
6. Detention may be substituted by other coercive measures, under the terms foreseen in penal procedure legislation.
7. The provisions of number 5 do not prejudice a new detention and extradition, if the request were to be subsequently received.
8. The provisional detention request may only be answered when there are no doubts as to the competence of the requiring authorities and if this is in line with the elements of number 3.

Article 39º

Detention not requested directly

It is legal for criminal police authorities to detain individuals who, according to official information, namely from INTERPOL, are required by foreign authorities for the effects of proceedings or serving a sentence for offenses specifically justifying extradition.

Article 40º

Extradition with the consent of the extradited party

1. The person detained for the effects of extradition may state to consent to his delivery to the requiring State and international judicial authority and that he/she renounces the extradition



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

process regulated by articles 51º to 62º, after being informed about his/her right to such a process.

2. The statement is signed by the extradited party and by his/her defender or lawyer.
3. The judge verifies compliance with the conditions for granting the extradition, hears the extradited party to determine whether the statement is of free will, and if affirmative, certifies such extradition, ordering his/her delivery to the requiring State, with a process being made of the entire process.
4. The statement, certified as above, is irrevocable.
5. The judicial act of certification is equivalent, for all effects, to a final decision of an extradition process.
6. Except for a treaty, convention or agreement which dispenses with the presentation of the extradition request, the certification takes place after the Minister of Justice approves answering the request, in which case the process proceeds to the certification phase.

Article 41º

Non-custodial coercive measures

During the proceedings until the final and unappealable decision, the provisions of number 6 of article 38º are applicable.

Article 42º

Escape of extradited person

The person who, after being delivered to the requiring State or the international judicial entity, were to escape before the end of the penal proceedings or before having served the sentence and were to be found in Cabo Verde shall be detained again and delivered to the same State or entity, by an arrest warrant from the competent foreign entity, except for the case where the conditions of the initial extradition have been violated.

Article 43º

Transit

1. The transit, through national territory or airspace, of a person extradited from one foreign State to another may be allowed, if no reasons of public order stand in the way and if the offense warrants an extradition, as per Cape Verdean law.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

2. If the person is of Cape Verdean nationality, transit shall not be granted.
3. The transit is authorized by request of the interested State.
4. If air transport were to be used and no landing in national territory were to be foreseen, communication about said extradition from the interested State is sufficient.
5. In the case of unforeseen landing, the provisions of number 3 are observed.
6. The detention of the extradited person is maintained in transit as long as he/she remains in Cape Verdean territory.
7. The request duly identifies the extradited person in transit, by applying, with the necessary adjustments, the elements referred to in paragraph 3 of article 38º, and is addressed to Minister of Justice by the means provided for in this law.
8. The decision on the request should be taken as soon as possible and communicated immediately to the requesting State through the same channels by which the request is made.
9. The conditions under which the transit is processed, and the authority that oversees it, shall be stated in the decision authorizing it.

SECTION II

EXTRADITION PROCESS

Article 44º

Content and instructions of the extradition request

1. In addition to the items listed in article 23º, the extradition request must include:
 - a) Demonstration that, in the case in question, the person to be extradited is subject to the criminal jurisdiction of the requesting State;
 - b) Evidence, in the case of an offence committed in a third State, that the person is not claiming extradition because of this offence;
 - c) Formal guarantee that the wanted person will not be extradited to a third State or held for criminal prosecution, to serve their sentence or for another purpose, by the various facts that substantiated the request and that are prior or current.
2. The extradition request shall be accompanied by the following elements:
 - a) Warrant of arrest of the person, issued by the legal authority;



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

- b) Certificate or certified copy of the decision ordering the issuance of the arrest warrant in the case of extradition for prosecution;
- c) Certificate or certified copy of the conviction, in the case of extradition to serve a sentence, as well as proof of the sentence to serve if it does not match the length of the sentence imposed on conviction;
- d) Copy of the legal texts relating to the prescription of criminal prosecution or custodial sentence, as appropriate;
- e) Declaration by the legal authority concerning the reasons for the suspension or interruption of the period of limitation, according to the law of the requesting State, where appropriate;
- f) Copy of the legal texts concerning the right to have an appeal against the decision or to have a retrial in the case of conviction in process, where the trial hearing has elapsed in the absence of the person to be extradited.

Article 45º

Additional Elements

1. When the request is incomplete or does not come accompanied by sufficient information to decide on it, we observe the provisions of paragraph 3 of article 23º, fixing a time limit for its submission, which may be extended in light of acceptable reasons invoked by the requesting State.
2. Failure to provide the elements requested under the preceding paragraph may result in closing the case at the end of the prescribed period, but nevertheless being able to proceed when these elements are presented.
3. If the request relates to a person already in custody for extradition purposes, the archiving as laid down in the preceding paragraph determines the immediate return to freedom, with the provisions of paragraph 7 of article 38º.

Article 46º

Nature of the Extradition Process

1. The extradition process is urgent and comprises the administrative phase and the judicial phase.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

2. The administrative phase is aimed at assessing the extradition request by the Minister of Justice for the purpose of deciding, in particular with regard to guarantees that may arise, if it can be pursued or whether it should be flatly rejected for reasons of political order, or opportunity, or convenience.
3. The judicial phase is the exclusive jurisdiction of the Court of Appeal and is intended to decide, with a hearing of the interested party, on the granting of extradition based on the legal condition of its form and substance, with no evidence being allowed on the allegations made against the extradited.

Article 47º

Representation of the Requesting State at Extradition Proceedings

1. The foreign State that makes the request to Cabo Verde can be granted permission to participate in the judicial phase of the extradition process, through a representative appointed for the purpose.
2. If the request for participation does not accompany the extradition request, then it must be addressed to the Court of Appeal through the Attorney General's Office.
3. The request for participation is subject to the decision of the Minister of Justice on its admissibility, preceding information from the Attorney General's Office, and may be refused if reciprocity is not guaranteed.
4. Participation, as referred to in paragraph 1, is intended to enable the requesting State direct contact with the process, in compliance with the rules on judicial secrecy, and provide the court with the elements that they request.

Article 48º

Administrative Process

1. On receipt of the extradition request, and once it has been checked for formal regularity, the Attorney General's Office, when it considers the request to be properly supported, produces information within 10 days and submits it for consideration of the Minister of Justice.
2. In the next 10 days, the Minister of Justice decides on the request.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

3. If the request is rejected, the case is closed, proceeding to the communication referred to in paragraph 3 of article 24º, the case is closed without further formalities.
4. The Attorney General's Office shall take the necessary measures for the monitoring of the person to be extradited.

Article 49º

Judicial Process, Jurisdiction and Appeal

1. In judicial extradition proceedings, the Court of Appeal is the legal authority in criminal matters.
2. The ruling is made by the Criminal Chamber of the Court of Appeal.
3. An appeal can only be made on the final decision, disputing the judgement at the Plenary of the Court of Appeal.
4. The appeal against the decision granting extradition has a suspensive effect.

Article 50º

Initiation of the Judicial Process

1. The extradition request that is to proceed is sent to the representative of the State Prosecutors at the Court of Appeal, together with the supporting elements and its decision.
2. Within 48 hours later, the General Prosecutor issues the compliance with the request.

Article 51º

Order Injunction and Arrest of the Person

1. Once the distribution is made, the process is immediately concluded by the reporting judge so as to issue, within 10 days, a preliminary injunction on the sufficiency of the elements that support the request, and its feasibility.
2. If it is understood that the process must be filed straight away, the reporting judge submits the case, with his/her written opinion, and it is considered by each of the assistant judges for five days in order to decide on the first session.
3. When the process is to continue, an order for delivery of the arrest warrant of the person to be extradited is made to the State Prosecutors, in order to provide for its implementation.
4. If it is necessary to have supplementary information, then the surveillance of the person to be extradited may be ordered by the relevant legal authorities, although this can be carried



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

out immediately after the arrest if it appears necessary and there are serious indications that the extradition request should proceed.

Article 52º

Period of Detention

1. The arrest of the person should cease and be replaced by another coercive measure if the final decision of the Court of Appeal is not rendered within 65 days following the date of the arrest.
2. If it is not admissible to use coercive measures that do not constitute detention, the period referred to above is extended up to a maximum of 25 days, within which, the decision of the Court of Appeal must be given.
3. Without prejudice to article 40º, detention subsists in the case of appeal against the judgement of the Court of Appeal that granted the extradition, but detention cannot be used, without appeal decision, for more than 80 days from the date on which the appeal was lodged.
4. If there was an appeal to the Constitutional Court, detention may not last for more than 3 months from the date on which the appeal was lodged.

Article 53º

Presentation of the Detainee

1. The authority carrying out the arrest of the person to be extradited communicates it immediately, in the most expedient way that allows for registration in writing to the State Prosecutors before the legal Court of Appeals.
2. The extradited is presented to the State Prosecutors, along with the objects or values that are seized, for a personal hearing within 48 hours after their arrest.
3. The reporting judge conducts the hearing, naming a defense lawyer for the extradited beforehand if a lawyer has not been appointed.
4. The extradition notification to the person to be extradited for this act should be done in person and should advise that the person may be accompanied by an appointed lawyer and an interpreter.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

5. When the detention cannot, for whatever reason, be considered by the Court of Appeals, the detainee is presented to the State Prosecutors and the Trial Court of the headquarters of the legal Court of Appeal.
6. In the case of the preceding paragraph, the hearing takes place exclusively for the purpose of validating and maintaining the detention by the judge of the Trial Court, and the prosecution must make appropriate arrangements for the presentation of the extradited person before the Court of Appeal.

Article 54º

Hearing of the person to be extradited

1. In the presence of the State Prosecutors and the defender or lawyer of the extradited person, and with the intervention of an interpreter when necessary, the reporting judge shall identify the detainee, then explain the right to oppose extradition or to allow it, and the terms under which it can occur, as well as the power to waive the benefit of the specialty rule under treaty law applicable to the case.
2. If the extradited person consents to their surrender to the requesting State, paragraphs 2-5 of article 40º shall apply accordingly. If the person opposes extradition, the judge deliberates on the reasons for the opposition if the person wants to reveal these, all of which is formally recorded.
3. In case there is the possibility to waive the entitlement to the specialty rule referred to in paragraph 1, the content of the information provided on that specialty rule is formally recorded, as well as the statement from the extradited person, with the provisions of paragraphs 2 to 5 of article 40º being correspondingly applicable.
4. Information referring to the preceding paragraph is also formally recorded if, under the applicable treaty law, renunciation of entitlement to the specialty rule may still be granted before the requesting judicial authority after delivery of the extradited person.
5. The State Prosecutors and the defender or the lawyer of the person to be extradited can suggest questions to the detainee, which the reporting judge can formulate if deemed appropriate.
6. The provisions of paragraphs 3 and 4 shall also apply to re-extradition.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA
Article 55º

Opposing Extradition

1. After the hearing of the person to be extradited, the process is made available to the legal defence or lawyer appointed in order to, within eight days, make a written founded opposition to the extradition request and indicate evidence allowed by Cape Verdean law, being, however, the number of witnesses limited to ten.
2. The opposition to extradition can only be based on the detainee not being the person to be extradited, or not having met the conditions of extradition.
3. After the opposition is presented, or at the end of the period in which the opposition can be made, the case is reviewed for five days by the State Prosecutors to request what it deems suitable, keeping to the limit of witness statements as referred to above.
4. If things have been seized, both the person to be extradited and the State Prosecutors can decide on their destination.
5. The evidence offered could be replaced up to the day prior to when the evidence must be adduced, as long as the replacement does not involve delay.

Article 56º

Adduction of Evidence

1. The steps that have been required and that the reporting judge deems necessary, in particular to decide on the fate of the seized belonging, must be implemented within 15 days, with the presence of the person to be extradited, the legal defence or appointed lawyer, and interpreter if necessary, as well as the State Prosecutors.
2. After the evidence is adduced, the State Prosecutors, the legal defence or appointed lawyer, have access to the case for five days successfully, for claims.

Article 57º

Final Decision

1. If the person to be extradited has not submitted a written opposition, or after the allegations adduced in accordance with paragraph 2 of the previous article, the reporting judge shall,



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

within 10 days, proceed with examining the case, and allows each of the assistant judges to review the case for 5 days.

2. After the last viewing, the process is presented in the next session, regardless of registration at the table and with priority over others, for a final decision, with the ruling being made in accordance with the Criminal Procedure Act.

Article 58º

Lodging and Supporting an Appeal

1. The prosecution and extradited person can appeal the final decision within 10 days.
2. The appeal must include allegations of the appellant, with the appeal being dismissed if does not contain this.
3. The other party, once notified, may respond within 10 days.

Article 59º

Review of the Case and Trial

1. After distribution at the Supreme Court, the process shall be concluded and sent to the reporting judge for 10 days, to prepare the draft ruling, and then is sent along with this, for simultaneous review by the other judges for 10 days.
2. The process is put on trial in the first session after the last viewing, regardless of registration at the table, and with priority over others.

Article 60º

Delivery of the person to be extradited

1. It is necessary and sufficient, for the delivery of the person to be extradited, a certificate of the decision that orders the extradition, which became the final ruling.
2. After the final and unappealable decision, the State Prosecutors proceed to communicate to the relevant departments of the Ministry of Justice for the purposes of article 27º.
3. The date of delivery referred to above is established until 20-day limit after the transit.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA
Article 61º

Time limit for the removal of the person to be extradited

1. The person to be extradited must be removed from the Cape Verdean territory on the date agreed upon in accordance with article 60º.
2. If no one appears to receive the extradited person on the date referred to in the previous paragraph, the person will be restored to freedom after 20 days from that date.
3. The deadline referred to above is extended to the extent required by the case, up to a maximum of 20 days when there are compelling reasons, including disease verified in accordance with paragraph 3 article 35º, preventing the removal within that period.
4. New requests will not be considered for extradition of the person who was not removed within the period referred to in paragraph 2 or, if extended, after the expiry of the prorogation.
5. After the person is delivered, the necessary communications are made to the court and to the Attorney General's Office.

SECTION III

Special Rules of Procedure in Case of Early Detention

Article 62º

Legal competence and form of custody

1. The provisional detention is ordered by the reporting judge referred to in article 51º, when the authenticity, regularity and eligibility of the request is ensured, and to this end, delivered to State Prosecutors who authorize its enforcement.
2. The entity making the arrest shows the detainee to the State Prosecutors at the legal Court of Appeal to conduct the judicial hearing and decision of validation and maintenance within forty-eight hours after the arrest.
3. The detention is immediately reported to the Foreign State, with the issuance of an order for release when it ceases, pursuant to paragraph 5 of article 38º.
4. The Public Prosecution Service promotes the issuance of a release warrant when provisional detention is due to cease pursuant to article 38º, number 5.
5. The provisions of paragraphs 5 and 6 of article 53º are applicable accordingly.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

Article 63º

Time Limits

1. Once the detainee extradition request is received, the procedure provided for in article 48º is to be finalized within 10 days.
2. Should the decision of the Minister of Justice be favorable to proceeding, the request is transmitted immediately through the Attorney General's Office in order to immediately promote compliance.
3. The arrest of the person should cease and be replaced by another coercive measure if the request in court does not occur within 60 days following the date of the arrest.
4. The designation of the process is immediate, with the terms of paragraphs 1 and 2 of article 51º being reduced and the period referred to in paragraph 1 of article 52º being counted from the date of submission of release of the detainee.
5. The decision of the Minister of Justice is immediately communicated in accordance with paragraph 2 of this article, for the purposes of release of the detainee.

Article 64º

Jurisdiction and Detention that is not directly requested

1. The authority to make an arrest under article 39º introduces the detainee to the State Prosecutors to conduct a judicial hearing within 48 hours of arrest, pursuant to paragraph 2 of article 62º.
2. If it is confirmed, the arrest is reported immediately to the Attorney General's Office and, by the quickest means, to the foreign official to whom it may concern, so they can inform, urgently and through the same channels, whether the extradition request will be made, inviting them to comply with the deadlines set out in paragraph 5 of article 38º.
3. The detainee is set free 18 days after the arrest date if, in the meantime, the information referred to in the preceding paragraph does not arrive or 40 days after the date of arrest if, having had positive information, the extradition request is not received within that period.
4. The provisions of paragraphs 5 and 6 of article 53º and 63º are applicable accordingly.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

Article 65º

Non-Custodial Coercive Measures and Legal Competences

The non-custodial coercive measures, when admitted as per articles 38º and 64º, are the responsibility of the Court of Appeal.

SECTION IV

Redelivery After Escape of Person to be Extradited

Article 66º

Detention after escape of person to be extradited

1. The warrant referred to in article 42º is received by the Central Authority through the channels mentioned in this act, and shall contain or be accompanied by the necessary elements to know if it is a person previously extradited by the Republic of Cabo Verde, who escaped before the termination of prosecution or punishment.
2. The arrest warrant is referred to the State Prosecutors at the Court of Appeal where the extradition process occurred, to demand its compliance in the same process.

Article 67º

Enforcement of the Request

1. Once there is compliance with the arrest warrant, the reporting judge orders its respective implementation after checking its regularity and that it refers to the person already extradited.
2. In the eight days after the arrest, the extradited person can lodge a written opposition to their restitution to the requesting State, on the grounds that this violated the conditions under which extradition was granted and providing evidence, but with the number of witnesses limited to five.
3. Once the opposition is lodged, the terms of paragraphs 3 and 5 of article 55º and articles 56º and 57º are followed, where applicable.
4. The appeal of the final decision is filed, investigated and tried in the form prescribed in articles 58º and 59º.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

Article 68º

Redelivery of the Extradited Person

1. The prosecution arranges the redelivery of the extradited person under the terms applicable as per article 60º when no opposition is lodged or dismissed.
2. The certificate referred to in article 60º is replaced by the duly fulfilled arrest warrant.

CHAPTER II

ACTIVE EXTRADITION

Article 69º

Legal Competence and Proceedings

1. The authorization for the formulation of the extradition request of the person against whom there is a case pending in a Cape Verdean Court, to the foreign State in whose territory it is located, rests with the Minister of Justice.
2. The request, once properly submitted, should be transmitted through the channels provided in this law.
3. It rests upon the Attorney General's Office to organize the process, based on the request by the State Prosecutors together with the respective court.
4. The Minister of Justice may request from the foreign State that submitted an extradition request the participation of the Cape Verdean government in the extradition process, through a representative appointed for the purpose.

Article 70º

Re-extradition

The re-extradition requested by the Republic of Cabo Verde shall apply the provisions of paragraphs 4 and 5 of article 34º.

Article 71º

International Diffusion of the Request for Provisional Arrest

1. The warrant for provisional arrest with the aim of extradition is sent to the Attorney General's Office by the Public Ministry in the courts.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

2. The Attorney General's Office sends the warrant to the service of the criminal police responsible for INTERPOL and informs the court.

Article 72º

Communication

Once the extradition is granted, the Attorney General's Office of Republic reports it to the judicial authority that requested it.

CHAPTER III

Final and Transitory Provisions

Article 73º

Gratuity and Holidays

1. Extradition proceedings are free, subject to the provisions of subparagraphs b) to d) of paragraph 2 and paragraph 4 of article 26º.
2. Extradition proceedings are of an urgent nature and even run into legal holidays.

Article 74º

Transitive norms

The competencies of the Supreme Court of Justice established in this law will be assumed by the Courts of second instance as soon as they are created.

TITLE III

Transfer of Criminal Proceedings

Chapter I

Delegation of Criminal Proceedings in Cape Verdean Judicial Authorities

Article 75º

Principle

At the request of a foreign state, prosecution for an act committed outside the Cape Verdean territory may be opened or continued in Cabo Verde, under the conditions and with the effects referred to in the following articles.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA
Article 76º

Special Conditions

1. So that criminal procedure can be opened or continued in Cabo Verde, for an act committed outside of the Cape Verdean territory, the cumulative verification of the following conditions is necessary, in addition to the general requirements of this act:
 - a) The use of extradition is excluded;
 - b) The foreign State is to guarantee that no criminal proceeding takes place for the same act against the suspected or accused person if the person ends up being tried by a Cape Verdean court;
 - c) The prosecution covers an act that constitutes a crime according to the law of the foreign State and the Cape Verdean law;
 - d) The custodial sentence or detention order corresponding to the act are of a maximum period of less than one year or, in the case of a monetary penalty, the maximum amount is not less than the amount equivalent to 300.000\$00 (three hundred thousand escudos);
 - e) The suspect or the accused have Cape Verdean nationality or, in the case of foreigners or stateless persons have their habitual residence in Cabo Verde;
 - f) The acceptance of the request is justified by being in the interest of the proper administration of justice, or for better social rehabilitation of the suspect or accused in the case of conviction.
2. The initiation or continuation of criminal proceedings in Cabo Verde can still be accepted, if the conditions of the preceding paragraph are met:
 - a) When the suspect or accused person is being criminally prosecuted in Cabo Verde for another act that carries a custodial sentence or detention order equal to, or greater than, the ones referred to in point d) above, and their presence in court is guaranteed;
 - b) When the extradition of the suspect or accused foreign or stateless person who usually resides in Cabo Verde is denied;
 - c) If the requesting State considers that the presence of the suspect or accused person before its courts cannot be ensured, and may be ensured in Cabo Verde;
 - d) If the foreign State considers that there are no conditions to perform a possible conviction, even after resorting to extradition, and that such conditions are met in Cabo Verde.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

3. The provisions of the preceding paragraphs shall not apply if the criminal reaction that motivated the request falls within the jurisdiction of the Cape Verdean courts by virtue of another clause relating to the application of the Cape Verdean Penal Law in the space.
4. The condition referred to in subparagraph e) of paragraph 1 may be waived in cases when the circumstances so require, in particular to avoid a situation in which the trial may not take effect either in Cabo Verde or abroad.

Article 77º

Applicable law

Due to the fact that it is the subject of criminal proceedings initiated or continued in Cabo Verde, under the conditions mentioned in the previous article, the criminal reaction provided in Cape Verdean law is applied, unless the law of the requesting foreign State is more favorable.

Article 78º

Effects of Acceptance of the Request, in Relation to the State that Formulates it

1. Acceptance of the request of the foreign State by Cabo Verde implies the renunciation, through this, of the procedures related to the case.
2. If the criminal prosecution was opened or continued in Cabo Verde, the foreign State regains the right to prosecute the same act after due notice as soon as Cabo Verde ensures that the defendant is absent from the country.

Article 79º

Processing of the Request

1. The request by the foreign State is accompanied by the original or certified copy of the process to be transmitted, if available, and is submitted by the Attorney General's Office to the Minister of Justice.
2. If the Minister of Justice decides that the request is admissible, it is delivered to the Competent Court, which refers it later to the legal court, which immediately orders the notification for the attendance of the suspect or defendant and the appointed lawyer, if any.
3. If the suspect or the accused does not show up, the court checks whether the notification was legally made and appoints a defence counsel in the absence of an appointed lawyer.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

4. The judge, of their own motion, or at the request of the State Prosecutors, the suspect, the defendant or his counsel, may order the recurrence of the notification referred to in paragraph 2.
5. The suspect, the accused or the counsel, are invited to present their reasons for or against the acceptance of the request, with the State Prosecutors enjoying the same capacity.
6. If necessary, the judge shall proceed with the necessary steps of evidence, which he/she considers indispensable, on his own initiative or at the request of the State Prosecutors, the suspect, the defendant or his counsel, setting for this purpose, a period not exceeding 30 days.
7. Once the steps are carried out or the deadline referred to in the preceding paragraph expires, the prosecution and the accused person may give a decision within 10 days, alleging whatever they deem fit.
8. The judge decides on the request within eight days, with an appeal being allowed in general terms.
9. If the request is pending, the judge subjects the defendant to the provision of Term of Identity and Residence, notwithstanding the possibility to adopt other measures of constraint and equity guarantee provided for in the Criminal Procedure Code and other complementary legislation.

Article 80º

Effects of the Decision on the Request

In case of acceptance of the request, the judge can, as appropriate:

- a) Order the referral of the case to the legal judicial authority for the initiation or continuation of criminal proceedings;
- b) Take the steps necessary to continue the proceedings, if it falls within his jurisdiction.

Article 81º

Ratification of Acts Committed Abroad

The court decision ordering the continuation of criminal proceedings should declare the ratification of acts performed in the transferred process, as if they had been performed before the Cape Verdean



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

Judicial authorities, except in the case of inadmissible acts against the Cape Verdean criminal procedure law, as specified.

Article 82º

Revocation of the Decision

1. The judicial authority may revoke the decision at the request of the State Prosecutors, the suspect, the accused, or the defendant when, during the proceedings:
 - a) There is supervening knowledge of any of the causes of inadmissibility of cooperation under this Diploma;
 - b) It is not possible to ensure the attendance of the accused at the trial or implementation of the sentence that imposes deprivation of the offender's liberty in cases where the defendant is absent from the national territory, set out in paragraph 2 of article 78º.
2. On the decision of the appeal.
3. The transit of the decision terminates the jurisdiction of the Cape Verdean judicial authority and implies the transfer of the case to the foreign State making the request.

Article 83º

Communications

1. The following is communicated to the Central Authority, for notification to the foreign State making the request:
 - a) The decision on the admissibility of this;
 - b) The decision repealing the previous one;
 - c) The ruling resulting from the process;
 - d) Any other decision that terminates it.
2. The notification shall include certificate or certified copy of the decisions referred to above.

Article 84º

Territorial Jurisdiction

Except in the case when territorial jurisdiction is already defined, the provisions of article 38º of the Criminal Procedure Code and other complementary legislation applies to international cooperation acts as presented under this chapter.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA
CHAPTER II

Delegation in a Foreign State of the Initiation or Continuation of Criminal Procedure

Article 85º

Principle

The criminal proceedings or the continuation of procedures initiated in Cabo Verde for acts which constitute crimes can be delegated according to the foreign State that accepts it under the conditions referred to in the following articles.

Article 86º

Special Conditions

1. The delegation of criminal proceedings or their continuation in a foreign State depends on the verification of the general requirements of this law and also the following special conditions:
 - a) That the act integrates crime under Cape Verdean law and under the law of that State;
 - b) The penal sentence leading to the deprivation of the offender's liberty is a maximum period of less than one year or, in the case of a monetary penalty, the maximum amount is not less than the amount equivalent to 300.000\$00 (three hundred thousand escudos);
 - c) The suspect or the accused have the nationality of the foreign State or are nationals of a third country or are stateless persons, having their habitual residence there;
 - d) When the delegation is justified by the interest of the proper administration of justice or better social rehabilitation if convicted.
2. If the conditions referred to in the preceding paragraph are met, there can still be delegation:
 - a) When the suspect or the accused are to fulfil a sentence in the foreign State for a more serious crime than the one committed in Cabo Verde;
 - b) When, in accordance with the law of the foreign state, the extradition of the suspect or defendant cannot be obtained, or, where requested, it is denied and they have their habitual residence in that State;
 - c) When the suspect or accused are extradited to a foreign State by other facts, and it is expected that the delegation of the criminal case ensures better social reintegration.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

3. The delegation may also be carried out regardless of the agent's nationality, when Cabo Verde considers that the presence of the accused at the trial cannot be ensured, but may still be ensured in the foreign State.
4. Exceptionally, the delegation can be implemented independent of the requirement of habitual residence when the circumstances require, in particular, so as to avoid instances when the trial may not take either in Cabo Verde or abroad.

Article 87º

Delegation Procedure

1. The legal court with jurisdiction in a dispute values the need for delegation at the request of the State Prosecutor, the suspect, or the defendant, with an adversarial hearing, in which the reasons to grant or deny this form of international cooperation are set out.
2. The State Prosecutor and the suspect or the defendant can respond to the request referred to in paragraph 1 within 10 days, when they are not the requesting party.
3. After the response or after the time period for the same, the judge decides within eight days, to uphold or refuse the request.
4. If the suspect or the accused are abroad, they can, by themselves or through their legal representative or attorney, ask for the delegation of the criminal prosecution directly or through a foreign State authority or Cape Verdean consular authority, who will forward them to the Central Authority.
5. The judicial ruling that considers the request is subject to appeal.
6. The final decision in favor of the request determines the suspension of the limitation period, as well as the continuation of criminal proceedings, without prejudice to actions and urgent steps, and is transmitted through the Attorney General's Office for consideration by the Minister of Justice, with a copy being sent of all the claims that have been brought forward.

Article 88º

Transfer of request

The request by the Minister of Justice to the foreign State is presented by means provided for in this act.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA
Article 89º

Effects of the Delegation

1. Once the delegation for the initiation or continuation of criminal proceedings is accepted by the foreign state, no new process can be initiated in Cabo Verde for the same act.
2. The suspension of the limitation of criminal prosecution remains until the foreign State closes the proceedings, including the implementation of the sentence.
3. However, Cabo Verde recovers the right to prosecute if:
 - a) The foreign State communicates that it cannot lead the delegated procedure to the end;
 - b) There is supervening knowledge of any impediment to the request for delegation, under the terms of this diploma.
4. A sentence delivered in proceedings that were initiated or continued in a foreign State, and which applies a custodial sentence or detention order, is registered in the criminal record and shall take effect as if it had been delivered by a Cape Verdean court.
5. The preceding paragraph shall apply to any decision that is made in the foreign State process.

CHAPTER III

Common Provision

Article 90º

Costs

1. The possible costs owed from the foreign State process, prior to accepting the request of delegation in Cabo Verde, are added to those due in the Cape Verdean process and are charged together with this, without repayment to that State.
2. Cabo Verde informs the foreign State of the costs due in the process, prior to its acceptance of the request for delegation of the procedure, without requiring a reimbursement.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA
TITLE IV

ENFORCEMENT OF FOREIGN CRIMINAL SENTENCE

CHAPTER I

Enforcement of Foreign Criminal Sentence

Article 91º

Principle

1. Foreign criminal sentences, and final decisions, can be performed in Cabo Verde as provided in this Act.
2. The delegation request is made by the sentencing State.

Article 92º

Special Conditions of Admissibility

1. The request to enforce a foreign criminal sentence in Cabo Verde is admissible only when, in addition to the general conditions set forth in this Diploma, the following conditions are fulfilled:
 - a) A sentence imposing a criminal reaction must have been rendered for an offence for which the court of the foreign State has jurisdiction;
 - b) If the sentence was pronounced during a trial in the absence of the sentenced person, the later must have been given the legal possibility of requesting a new trial or introducing an appeal;
 - c) The enforcement of the sentence must not run counter to the fundamental principles of the Cape Verdean legal system;
 - d) The facts involved must not be the subject of criminal proceedings in Cabo Verde;
 - e) The facts involved must amount to a criminal offence under Cape Verdean law;
 - f) The sentenced person must be Cape Verdean citizen, or otherwise must have a habitual residence in Cabo Verde;
 - g) The enforcement of the sentence in Cabo Verde must be justified in terms of a better chance of either the rehabilitation of the sentenced person or compensation for damages resulting from the offence;



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

- h) The sentencing foreign State must have provided guarantees that, once the sentence has been enforced in Cabo Verde, it shall consider the criminal liability of the person concerned to be extinguished;
 - i) The term to be served under the sentence must not be less than one year or, in case of a financial sanction, it should correspond at least to the equivalent of 300.000\$00 (three hundred thousand escudos);
 - j) When the sentence involves the deprivation of liberty, the sentenced person must give his consent.
2. Without prejudice to the provisions established in the preceding paragraph, a foreign judgement may also be enforced if the person concerned is already serving a sentence in Cabo Verde for any offence other than the offence for which the foreign judgement was passed.
 3. The enforcement in Cabo Verde of a foreign sentence involving the deprivation of liberty shall also be admissible, even when the requirements provided for in paragraph 1, sub-paragraphs g) and j) above are not met, if, in the event of escape to the Republic of Cabo Verde or other situation in which the person is present there, the extradition of the person concerned was refused due to the offence for which he was sentenced.
 4. The provisions established in the preceding paragraph shall also apply, subject to an agreement between Cabo Verde and the foreign State concerned, and once the person in question has been heard, to those cases in which expulsion will be imposed once the sentence has been served.
 5. The requirement provided for in paragraph 1, sub-paragraph i), may be dispensed with in special cases, notably where appropriate given the health of the sentenced person or reasons pertaining to his family or profession.

Article 93º

Execution of decisions made by administrative authorities

1. Final decisions made in proceedings for offences as mentioned in paragraph 3 of article 1º may also be enforced, when the person concerned was given the possibility of appealing to a judicial authority.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

2. The communication of requests shall be made according to the provisions established in treaties, conventions or agreements to which Cabo Verde is a party or, otherwise, through the Central Authority in accordance with the provisions of this law.

Article 94º

Enforcement limits

1. The enforcement of a foreign judgement shall be limited to:
 - a) The enforcement of a sentence involving the deprivation of liberty or financial penalty, if property belonging to the sentenced person is found in Cabo Verde;
 - b) The confiscation of products, objects or instruments of the offence;
 - c) The enforcement of any decision concerning civil law compensation should the claimant request it.
2. Any order to the effect of exacting the legal costs shall be limited to the costs due to the requesting State.
3. The enforcement of a sentence involving the payment of a sum of money implies its conversion into Cape Verdean escudos at the rate of exchange in effect on the day the decision reviewing and confirming the sentence was made.
4. Ancillary sanctions and sentences involving the prohibitions of exercising certain professions, activities and rights shall only be enforced if the enforcement can have practical effects in Cabo Verde.

Article 95º

Documents and processing

1. The request must be submitted by the Central Authority to the Minister for examination.
2. The request must be accompanied by a certificate or an authenticated copy of the judgement to be enforced and, if applicable, the statement of consent from the person concerned when the provisions of sub-paragraph j) of paragraph 1 of article 92º apply, as well as information concerning the length of the provisional arrest or the length of the sentence already served.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

3. If the judgement concerns more than one person or imposes several criminal reactions, the request shall be accompanied by a certificate or an authenticated copy of the part of the judgement specifically indicated in the enforcement.
4. If the Minister of Justice considers the request admissible, the process must be forwarded via the Attorney General's Office in order to promote the implementation of the procedure concerning the review and confirmation of the judgement in Supreme Court.
5. The public prosecutor shall request that the sentenced person, or his defensive counsel be heard and state their views regarding the request, unless consent has already been given by that person according to the terms of paragraph 1, (j) of article 92º or unless the original request for the delegation of powers to enforce came from sentence status.

Article 96º

Review and confirmation of foreign judgements

1. Foreign judgements shall be enforceable only after they are reviewed and confirmed, according to the provisions established in the provisions of sub-paragraphs a) and c) of paragraph 2 of article 6º of this law.
2. When rendering a decision regarding the review and confirmation of a foreign judgment, the court:
 - a) Shall be bound by the findings as to the facts, insofar as they are deemed to be proven by the foreign judgement;
 - b) Shall not convert a sanction involving the deprivation of liberty into a financial sanction;
 - c) Shall under no circumstances worsen the sanction imposed by the foreign court.
3. If the court deems that the facts are not clear, or are insufficient, or that there are facts that are missing, it shall request the necessary supplementary information and confirmation of the judgement shall be denied when this information is impossible to obtain.
4. The cooperation procedures provided for in this chapter shall be of an urgent nature and shall not be interrupted during periods of judicial recess.
5. When the request concerns a person under arrest, a decision must be made within six months from the date the request reached the court.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

6. When the request concerns the enforcement of a sentence involving the deprivation of liberty, in those cases mentioned in paragraph 5 of article 92º, the delay provided for in the preceding paragraph shall be shortened to two months.
7. If an appeal is made, the delays mentioned in paragraphs 5 and 6 above shall be extended respectively by three months and one month.

Article 97º

Applicable law and effects of enforcement

1. Foreign judgements shall be enforced in conformance with Cape Verdean law.
2. Foreign judgements enforced in Cabo Verde shall produce the same effects that Cape Verdean law accords to judgements rendered by Cape Verdean courts.
3. Only the foreign State that requests the enforcement of a sentence shall have the right to decide on any application for review of that sentence.
4. Both the foreign State and Cabo Verde may exercise the right of amnesty, pardon or commutation.
5. The court that is empowered to enforce the judgement shall end the enforcement as soon as:
 - a) It is notified that the sentenced person was granted amnesty, pardon or commutation in such a way as to justify the end of the enforcement of the sentence and the ancillary sanctions;
 - b) It is notified that an application was filed for the review of the sentence or of any other decision, if that application might result in a decision that renders the sentence unenforceable;
 - c) If it concerns a financial sanction and the sentenced person pays the amount of the sanction in the requesting State.
6. Partial pardon, commutation and the substitution of the sanction with an alternative sanction shall be taken into consideration.
7. The foreign State must inform the court of any of the facts mentioned in paragraph 5 above that might result in the enforcement being discontinued.
8. The enforcement of the judgement in Cabo Verde implies that the foreign State must relinquish its right to enforce the same judgement; however, the right of enforcement shall



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

revert to the foreign State if the sentenced person escapes, or, if the sentence involve a financial penalty, starting when it was informed of the total or partial non-execution of this penalty.

Article 98º

Prison where the sentence shall be enforced

When a decision regarding confirmation of the foreign sentence becomes final and enforceable, and if that decision involves the deprivation of liberty, the public prosecutor shall take measures to ensure that the person is brought to the prison.

Article 99º

Court with enforcement jurisdiction

1. The court of first instance of the judicial district where the sentenced person has his residence in Cabo Verde, or where he had his latest residence in Cabo Verde, shall be empowered to enforce the sentence, as reviewed and confirmed;
2. For the purposes of the preceding paragraph, the Supreme Court of Justice orders the case to be referred to the court of the said county.

CHAPTER II

Enforcement of Cape Verdean Criminal Judgements Abroad

Article 100º

Delegation conditions

1. Other than the general requirements provided for in this law, the powers to enforce a Cape Verdean criminal judgement may be transferred to a foreign State only if:
 - a) The sentenced person is either a citizen of that State, or citizen of a third State or stateless with his/her habitual residence in said State;
 - b) The sentenced person is a Cape Verdean citizen with his/her habitual residence in the foreign State;
 - c) It is not possible or advisable to obtain extradition of the person in question for the purpose of enforcing the Cape Verdean sentence;
 - d) There are good reasons to believe that the transfer will provide better chances for the rehabilitation of the person concerned;



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

- e) When the sentence involves a criminal reaction in the form of the deprivation of liberty, the sentenced person, once informed of the consequences of the transfer of enforcement abroad, consents to this transfer;
 - f) The period of the penalty or enforcement measure is not shorter than one year or, where the sentence is a financial sentence, its amount is not shorter than the equivalent of 300.000\$00 (three hundred thousand escudos); however, upon agreement with the foreign State concerned, this requirement may be waived in special cases, notably those regarding the health of the sentenced person or for family or professional reasons.
2. When the requirements provided for in the preceding paragraph, where applicable, are met, transfer shall also be admissible if the person concerned is serving a sentence involving the deprivation of liberty in the foreign State for facts other than those for which he/she was sentenced in Cabo Verde.
 3. The enforcement abroad of Cape Verdean sentence involving the deprivation of liberty shall also be admissible, even where the requirements provided for in paragraph 1, sub-paragraphs d) and e) have not been met, if the sentenced person is present in the territory of the foreign State and extradition for the facts mentioned in the sentence is not possible or has been refused.
 4. Upon agreement with the foreign State concerned and when advisable given the circumstances of the case, the provisions of paragraph 3 above may also apply to the execution of the ancillary penalty of expulsion.
 5. Transfer shall be made subject to the provision that the foreign State shall not increase the imposed penalty.

Article 101º

Reciprocal application

1. The provisions of paragraphs 1, 2 and 4 of article 94º concerning limits to the execution, and the provisions of paragraphs 2 to 7 of article 97º concerning the effects of the execution, shall apply reciprocally.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

2. When the sentenced person does not have enough property in Cabo Verde to guarantee the full enforcement of a financial sanction, transfer of the enforcement of the remaining part of the sanction shall be admissible.

Article 102º

Effects of the transfer

1. The acceptance by a foreign State of the authority to enforce the Cape Verdean judgement implies that Cabo Verde relinquishes its authority to enforce said judgement.
2. When the foreign State agrees to enforce the Cape Verdean judgement, the court shall discontinue the enforcement starting on the date enforcement begins in that State, until the enforcement is concluded or until that State indicates that enforcement is not possible.
3. At the time the sentenced person is surrendered, the foreign State shall be informed both of the duration of the deprivation of liberty served in Cabo Verde and the duration of the deprivation of liberty that remains to be served.
4. The provisions established in paragraph 1 above shall not preclude Cabo Verde from recuperating its powers to enforce the judgement when the sentenced person escapes or, where the sanction imposed is a financial sanction, starting on the date Cabo Verde is informed that all of the sanction was not enforced.

Article 103º

Delegation Procedure

1. Requests for the transfer of enforcement to a foreign State must be submitted to the Minister of Justice by the General Prosecutor of the Republic at the request of either that State, the public prosecutor, the sentenced person; the auditor or the party claiming damages in which case the parties claiming damages shall be limited in scope to the execution of that part of any sentence that involves the payment of damages.
2. The Minister of Justice must take a decision within a period of time of 15 days.
3. If the Minister of Justice considers the request admissible, the request is immediately forwarded by the Central Authority to the Minister of Justice of the Criminal Chamber of the Court of Appeals, so that the applicable procedure can be carried out.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

4. When the consent of the sentenced person is necessary, such consent, if given, must be given before that court, unless the person is abroad, in which case consent may be given before a Cape Verdean consular authority or before a foreign judicial authority.
5. If the person is present in Cabo Verde and did not originate the request, the public prosecutor shall request that the person be notified of his right to state an opinion within ten days.
6. If the sentenced person abstains from responding, his silence shall be considered acquiescence with the request and the person shall be notified accordingly.
7. For the purposes indicated in paragraphs 4 and 6 above, a letter rogatory shall be forwarded to the foreign authority or an official communication shall be sent to the Cape Verdean consular authority; in either case, a time-limit shall be established.
8. The Criminal Chamber of the Court of Appeals may take such steps as it deems necessary in order to be in a position to make a decision, including requesting the submission of the criminal process relating to the sentence.

Article 104º

Time limits

1. The cooperation procedures regulated in this chapter shall be regarded as urgent and shall not stop during periods of judicial recess.
2. When the request concerns the enforcement of a sentence involving the deprivation of liberty, it must be decided within six months from the date in which it was registered in the court, except for those cases indicated in the second part of sub-paragraph f) of paragraph 1 of article 100º in which the time-limit is two months.

Article 105º

Presentation of the request

1. Following any decision rendered in favor of the transfer, the Minister of Justice, through the Central Authority, shall forward a request to the foreign States, accompanied by the following documents:
 - a) A certificate or an authenticated copy of the Cape Verdean sentence, mentioning the date it became enforceable;



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

- b) A statement mentioning the duration of the deprivation of liberty already served until the date of the request;
 - c) The text of the consent of the person concerned, if applicable.
2. If the competent foreign authority provides notification that the request is accepted, the Central Authority shall request to be kept informed of the enforcement until it is completed.
 3. Any information that is received, such as provided for in the previous paragraph, shall be forwarded to the court which rendered the sentence.

CHAPTER III

PROCEEDS FROM FINES, CONFISCATED PROPERTY AND PROVISIONAL METHODS

Article 106º

Proceeds from fines and confiscated property

1. The proceeds from any fines imposed by foreign sentences enforced in Cabo Verde shall revert to the Cape Verdean State.
2. However, if the sentencing State so requires, said proceeds may be rendered to it on the condition that, under the same circumstances, an equal procedure would be adopted with respect to Cabo Verde.
3. The provisions of both preceding paragraphs shall apply reciprocally when the enforcement of Cape Verdean sentence is transferred to a foreign State.
4. Property that is confiscated shall revert to the State of enforcement, but may however be remitted to the sentencing State if it so requires, if the property is of special interest to it and if reciprocity is ensured.

Article 107º

Coercive measures

1. At the request of the public prosecutor and in the framework of the procedure for the review and confirmation of a foreign judgement for the purpose of enforcing a sentence involving the deprivation of liberty, the Court of Appeals may decide to impose the coercive measures it deems appropriate upon the sentenced person, if that person is in Cabo Verde.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

2. When provisional arrest is the coercive measure imposed, the measure shall conclude upon the expiration of the time limits provided for in paragraphs 4 and 5 of article 96º, if a decision of confirmation has still not be rendered by that time.
3. In this case, provisional arrest may be replaced by another coercive measure, in conformance with the Criminal Procedure Code.
4. Any decision concerning coercive measures shall be open to an appeal.

Article 108º

Provisional measures

1. At the request of the public prosecutor, the court may decide to impose any such provisional measures it deems necessary in order to ensure the possibility of enforcing a sentence where the safe-keeping of property is at stake.
2. Any decision made as a result of such a request shall be open to an appeal; appeals against decisions imposing such measures shall not suspend their implementation.

Article 109º

Provisional measures taken abroad

1. The request to transfer the enforcement of a Cape Verdean judgement to a foreign State may be accompanied by a request that coercive measures be taken with respect to the sentenced person, should the latter be in the territory of that State.
2. The provisions of the preceding paragraph shall also apply to any provisional measures aimed at ensuring the possibility of enforcing a sentence where the safekeeping of property is at stake.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA
TITLE V

TRANSFER OF SENTENCED PERSONS

SECTION I

COMMON PROVISIONS

Article 110º

Scope

This chapter applies to the enforcement of criminal judgments when such enforcement carries with it the transfer of a person sentenced to a sanction or measure involving the deprivation of liberty and when the transfer results from the person's request or depends on the person's consent.

Article 111º

Principles

1. If the general requirements provided for in this law and in the following articles are met, any person sentenced by a foreign court to a sanction or a measure involving the deprivation of liberty may be transferred to Cabo Verde in order to serve the imposed sentence.
2. In the same way and for the same purposes, any person sentenced in Cabo Verde to a sanction or measure involving the deprivation of liberty may be transferred to the territory of a foreign State.
3. The transfer may be requested either by a foreign State or by the Republic of Cabo Verde, in both cases provided that this is either at the request or with the express consent of the sentenced person.
4. The transfer is also subject to the existence of an agreement between the State in which the person was sentenced and the State requested to make the transfer.

Article 112º

Information to sentenced persons

The prison administration shall inform all foreign persons sentenced in Cabo Verde of their right to request their transfer in conformance with this law.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA
SECTION II

TRANSFER ABROAD

Article 113º

Information and supporting documents

1. When the person concerned expresses an interest in being transferred to a foreign State, the Central Authority shall inform that State in order to obtain its agreement; that information shall include:
 - a) Name, date, place of birth and nationality of the person concerned;
 - b) Address in that State, where applicable;
 - c) A statement of the facts upon which the sentence was based;
 - d) The nature and duration of and the date in which the person started serving the sanction or measure.
2. The following information shall also be forwarded to the foreign State:
 - a) A certificate or an authenticated copy of the sentence and of the text of the applied legal provisions;
 - b) A statement indicating the duration of the sanction or measure that was already served, the duration of provisional arrest, reduction of the sentence and any other facts pertaining to the enforcement of the sentence; as well as information regarding the remaining duration of the sanction.
 - c) A statement establishing the consent of the person concerned to be transferred;
 - d) If applicable, any medical or social report relating to the person concerned and in particular to any medical treatment undergone by that person in Cabo Verde and any recommendations as to the continuation of such treatment.

Article 114º

Internal jurisdiction to formulate the request

1. The Public Prosecutor at the court where the penalty was applied shall process the request for transfer on his/her own initiative or at the request of the applicant. Transfer requests must be forwarded as soon as the sentence becomes enforceable.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

2. The request shall be lodged as soon as possible following the transit of the judgement, with the consent of the person concerned.
3. Requests shall be forwarded by the Central Authority to the Minister of Justice for examination.
4. When justified by the circumstances of the case, the Minister of Justice may request information from the Attorney General's Office and the prison administration which must be presented within 10 days.
5. The person concerned shall be informed in writing of all decisions made subsequent to the request.

Article 115º

Request presented by the foreign State and supporting documents

1. Where a person expressed to a foreign State the wish to be transferred, that State should forward, with the respect, the following documents:
 - a) A statement indicating that the sentenced person either is a national of that State or has an habitual residence in its territory;
 - b) A copy of the legal provisions from which it can be assumed that the facts upon which the Cape Verdean sentence was based also amount to a punishable offence in that State;
 - c) Any other documents relevant to the evaluation of the request.
2. The information listed in paragraph 2 of article 113º shall be forwarded to the foreign, unless the request is summarily rejected.

Article 116º

Decision

1. If the Minister of Justice considers the request to be admissible, it shall be forwarded to the Public Prosecutor who promotes the judicial hearing of the person to be transferred, observing, for this purpose, the provisions of the Criminal Procedure Code to the interrogation of defendant detained.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

2. The Supreme Court shall render a decision regarding the request, after having determined that the person concerned, fully knowledgeable of the legal consequences thereof, voluntarily consented to his/her transfer.
3. A consular agent or any official appointed with the agreement of the foreign State shall be granted the possibility of verifying whether or not the consent was given in conformance with the provisions of the preceding paragraph.

Article 117º

Effects of the foreign transfer

1. The transfer of the person to a foreign State shall have the effect of suspending the enforcement of the sentence in Cabo Verde.
2. Cabo Verde may no longer enforce the sentence after the person has been transferred if the foreign State provides notification that the sentence was considered fully enforced by judicial decision.
3. When any court applies a measure of amnesty, pardon or commutation, the foreign State shall be informed through the Central Authority.

SECTION III

Transfer to Cabo Verde

Article 118º

Request for transfer to Cabo Verde

1. When a person sentenced in a foreign State expresses the wish to be transferred to Cabo Verde, the General Prosecutor of the Republic shall forward the Minister of Justice the information mentioned in article 113º that he/she will have received from that State so that the Minister of Justice can examine the admissibility of the request.
2. The provisions established in the preceding paragraph shall also apply if the request comes from the foreign State.
3. The Minister of Justice may request an opinion from the Attorney General's Office of the Republic, the prison administration, which shall be produced within 10 days.
4. The provisions of paragraph 5 of article 114º shall apply reciprocally.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA
Article 119º

Specific requirements for the transfer to Cabo Verde

1. Once a request for transfer to Cabo Verde is accepted, the process shall be forwarded to the General Prosecutor of the Republic in order to be sent for the review and confirmation of the foreign sentence.
2. If the judicial decision regarding the review and confirmation of the foreign sentence becomes enforceable, that decision shall be transmitted by the Central Authority to the requesting State so that the transfer can be carried out.

SECTION IV

Information regarding the enforcement and transit

Article 120º

Information regarding the enforcement

1. All information concerning the enforcement of the sentence shall be transmitted to the requesting State; that information shall include:
 - a) The date on which enforcement of the sentenced was completed, as decided upon by means a judicial decision;
 - b) If applicable, notice of the escape of the person concerned prior to the sentence having been fully enforced.
2. At the request of the State that requested the transfer, the State shall be sent a special report on the way the enforcement took place and the corresponding results.

Article 121º

Transit

Authorization for transit through the Cape Verdean territory of a person being transferred from one State to another may be granted, at the request of any such State; and the corresponding provisions of article 43º shall apply.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA
TITLE VI

SUPERVISION OF CONDITIONALLY SENTENCED OR CONDITIONALLY RELEASED OFFENDERS

CHAPTER I

General Provisions

Article 122º

Principles

1. Cooperation for the purpose of providing supervision for conditionally sentenced or conditionally released offenders who are habitual residents in the territory of the State territory asked to provide this cooperation, shall be admissible under the terms established in the provisions contained in the following articles.
2. The cooperation indicated in the preceding paragraph shall have the following objectives:
 - a) Facilitate the social rehabilitation of the offender through the adoption of adequate measures;
 - b) Supervise the behavior of the person concerned for the purpose of either ordering a criminal reaction or enforcing a criminal reaction that was already ordered.

Article 123º

Object

1. The cooperation provided for in this section may consist of one of the following methods:
 - a) Supervision of the sentenced person;
 - b) Supervision and eventual enforcement of the sentence, or
 - c) Full enforcement of the sentence.
2. When a request for cooperation under one of the above-mentioned methods is received, it may be refused and one of the other methods, if deemed to be more adequate, may be proposed in its place, provided that the proposal is accepted by the requesting State.

Article 124º

Legitimacy

Cooperation shall be made subject to a request from the State in whose territory the judgement was rendered.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA
Article 125º

Double incrimination

The offence for which the request for cooperation is made must be punishable under both the law of the requesting and the requested State.

Article 126º

Optional refusal

Notwithstanding the general requirements provided for in this law, cooperation requested to Cabo Verde may be refused if:

- a) The request concerns a decision made in absentia and there was no legal possibility to have a new trial or for an appeal;
- b) The decision is not compatible with the underlying principles of Cape Verdean criminal law, especially if that person should not have been subject to criminal proceeding in Cabo Verde due to the age of the person concerned.

Article 127º

Submission of a request to Cabo Verde

1. Any request made to Cabo Verde shall be submitted to the Central Authority for the consideration of the Minister of Justice.
2. The Minister of Justice may request an opinion from any agency that is empowered to follow the measures imposed in the sentence.
3. If the Minister of Justice accepts the request, the Attorney General's Office of the Republic shall forward it to the Supreme Court in order to obtain a judicial decision regarding the admissibility of the request.

Article 128º

Information

1. The decision regarding the request for cooperation shall be immediately communicated by the Central Authority to the requesting State and, in case of total or partial refusal, reasons shall be given.



**MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA**

2. When the request is accepted, the Central Authority shall also inform the requesting State about any circumstances that might affect either the implementation of the supervision measures or the enforcement of the sentence.

CHAPTER II

SUPERVISION

Article 129º

Supervision measures

1. The foreign State that requests only supervision shall inform the Cape Verdean authorities of the conditions imposed on the offender and, if applicable, of the supervisory measures that the latter must comply with during the probation period.
2. When the request is accepted, the prescribed supervisory measures shall, if necessary, be adapted by the court to the measures provided for in Cape Verdean law.
3. In no case may the supervisory measures applied in Cabo Verde, whether with regard to their nature or their duration, be more severe than those prescribed in the decision made in the foreign State.

Article 130º

Consequences of accepting a request

The acceptance of a request for supervision shall imply the following duties:

- a) To ensure cooperation between the authorities and entities responsible, in the Cape Verdean territory, for supervising and assisting offenders;
- b) To inform the requesting State of all measures taken and their implementation.

Article 131º

Revocation and expiration

1. Should the offender become subject to the revocation of the conditional suspension of his sentence either because he/she has been prosecuted or sentenced for a new offence, or because he/she has failed to observe the prescribed conditions, the necessary information shall be supplied to the requesting State automatically and without delay.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

2. When the period of supervision expires, the necessary information shall be supplied to the requesting State.

Article 132º

Powers of the requesting State

The requesting foreign State shall alone be competent to judge, based on the information and comments supplied to it, whether or not the offender has satisfied the conditions imposed upon him/her, and, on the basis of such appraisal, to take any further steps provided for in its own legislation; it shall also inform the Cape Verdean authorities of its decision.

CHAPTER III

SUPERVISION AND ENFORCEMENT OF SENTENCES

Article 133º

Consequences of revocation of the conditional suspension of the sentence

1. After revocation of the conditional suspension of the sentence by the foreign State, Cabo Verde shall become empowered to enforce said sentence, upon a request issued by that State.
2. The enforcement shall take place in accordance with Cape Verdean law, after verification of the authenticity of the request for enforcement and its compatibility with the terms of this law concerning the revision and confirmation of foreign sentences.
3. Cabo Verde shall transmit a document to the requesting State certifying that the sentence has been enforced.
4. The court shall, if necessary, substitute the penalty imposed in the requesting State for the penalty or measure provided for by Cape Verdean law for a similar offence.
5. In the cases mentioned in the preceding paragraph, the nature of the substitute sanction or measure shall correspond as closely as possible to that of the original decision, without however exceeding the maximum penalty provided for by Cape Verdean law, nor may it be longer or more severe than the penalty imposed by the foreign State.

Article 134º

Powers of conditional release

The Cape Verdean court shall be the sole party authorized to grant the offender conditional release.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA
Article 135º

Amnesty, pardon and commutation procedures

Amnesty, general pardon and commutation may be granted either by the foreign State or Cabo Verde.

CHAPTER IV

Full enforcement of the sentence

Article 136º

Applicable provisions

Where the foreign State requests the full enforcement of the sentence, the provisions of paragraphs 2 to 5 of article 133º and articles 134º and 135º shall apply reciprocally.

CHAPTER V

Requested Cooperation by Cabo Verde

Article 137º

Regime

1. Once a request made by Cabo Verde is accepted, the Central Authority shall inform the authorities responsible for monitoring the implementation of the measures imposed in the sentence so that they can establish direct contacts with their foreign counterparts.
2. The provisions of the preceding chapters shall apply, reciprocally, to the requests for cooperation made by Cabo Verde.

CHAPTER VI

Common Provisions

Article 138º

Contents of the request

1. Requests for cooperation shall be prepared and organized in accordance with both the provisions established in article 23º and the specific requirements listed in the following paragraphs.
2. Request for supervision shall include:
 - a) The reasons for the supervision;
 - b) A description of the supervisory measures prescribed;



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

- c) The nature and duration of the supervisory measures whose application is requested;
 - d) Information about the character of the offender and his behavior in the requesting State before and after the date of the decision imposing supervision.
3. The request for supervision and enforcement shall be accompanied by the decision imposing a criminal reaction and the decision to revoke the conditional suspension of the pronouncement or enforcement of the sentence.
 4. The enforceable nature of both decisions shall be certified in the manner prescribed by the law of the requesting State.
 5. When the decision to be enforced has replaced an earlier one and does not contain a recital of the facts of the case, the decision containing such recital shall also be attached.
 6. If it is considered that the information supplied by the requesting State is insufficient for the purposes of granting the request, additional information shall be requested; a time-limit for the receipt of this information may be established.

Article 139º

Procedure and decision

1. The provisions of this chapter relating to the enforcement of criminal judgements, and for all matters not specifically provided for therein, especially those concerning the examination of requests by the Minister of Justice under the jurisdiction of the Cape Verdean courts and regarding the procedure and the effects of the enforcement, shall apply with the proper adaptations.
2. The provisions relating to the consent of the person concerned shall not apply to cases where only a request for supervision is made.
3. The Minister of Justice may request an opinion from the Attorney General's Office of the Republic and/or the prison administration before rendering a decision regarding the request.

Article 140º

Expenses and legal costs

1. Upon application of the requesting State, expenses incurred with, and legal costs resulting from the procedure in that State, if duly indicated, shall be collected.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

2. When expenses or costs are collected, a refund to the requesting State shall not be mandatory, except for fees due to experts.
3. Supervision and enforcement expenses incurred shall not be refunded by the requested State.

TITLE VII

MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

CHAPTER I

PROVISIONS COMMON TO DIFFERENT FORMS OF ASSISTANCE

Article 141^o

Principle and scope

1. The assistance shall include: the communication of information; the service of writs; communication of procedural steps or other public law acts admitted by Cape Verdean law if they are necessary for the purposes of criminal proceedings; as well as the steps that are necessary to seize or recover proceeds from, objects of or instrumentalities of an offence, laundered assets, funds that are suspected of being used or which are known to have been used to finance terrorism and property of a value equivalent to these items that may be seized.
2. Assistance shall include the following in particular:
 - a) The notification of deeds and the service of documents;
 - b) The procuring of evidence;
 - c) Searches, seizure of property, expert examinations and analysis;
 - d) The hearing and service of writs to subjects, suspects, accused persons, witnesses or experts;
 - e) The transit of persons;
 - f) The communication of information regarding Cape Verdean law or the law of a foreign State, as well as the communication of information relating to the judicial record of the suspect, accused or sentenced persons.
3. When the circumstances of the case so require, subject to an agreement between Cabo Verde and a foreign State or an international judicial entity, any hearings as mentioned in subparagraph d) of previous paragraph may take place by using telecommunication means in real



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

time, in accordance with Cape Verdean criminal procedure law and without prejudice to the provisions of paragraph 5.

4. Within the framework of assistance in criminal matters, either upon the authorization of the Minister of Justice or in conformance with the provisions of agreement, treaty or convention to which Cabo Verde is a Party, direct communication of information relating to criminal matters may be established between Cabo Verde and foreign authorities that assist judicial authorities.
5. The Minister of Justice shall be empowered to authorize the participation of foreign judicial authorities and foreign criminal police authorities in criminal proceedings that take place on Cape Verdean territory, especially within the framework of joint criminal investigation teams made up of both national and foreign members.
6. Unless provided for by international agreements, treaties or conventions, setting up joint criminal investigation teams requires the authorization of the Minister of Justice.
7. The holding referred to in number 5 is admitted as assistance for the Cape Verdean/foreign judicial authorities or criminal police competent for the act, with the presence and direction of the Cape Verdean authorities always being mandatory, pursuant to the provisions of the Criminal Procedure Law, and with a reciprocity requirement, with everything being referenced in the process.
8. The provisions of article 29^o extend to the due diligence within the competence of the criminal police authorities, made under the conditions and within the limits established by the Code of Criminal Procedure and other complementary legislation.
9. The competence referred to in number 5 may be delegated to the Central Authority or, when the travel exclusively concerns the criminal police authority or body, to the managing bodies of the Criminal Investigation Service.
10. The provision laid down in number 5 shall apply to requests for assistance made by Cabo Verde.
11. The provisions in this article shall not affect the application of more favorable provisions of agreements, treaties or conventions Cabo Verde is a party to.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA
Article 142º

Joint criminal investigation teams

1. Joint criminal investigation teams are created by agreement between the Cape Verdean State and the foreign State, specifically when:
 - a) In the criminal investigation field of a foreign State, there is a need to undertake particularly complex investigations with implications in Cabo Verde or another State;
 - b) Numerous States undertake criminal investigations which, due to the circumstances, require coordinated and concerted action in the States involved.
2. Request to set up joint criminal investigation teams shall include, in addition to the members mentioned in the previous point, the following:
 - a) The authority making the request;
 - b) The purpose and reason for the request;
 - c) Where possible, the identity and nationality of the person in question; and
 - d) When necessary, the name and address of the person to be served;
 - e) Brief description of the facts and their qualification, as well as other elements provided for in a treaty, contract or agreement to which Cabo Verde is a party.
3. The members seconded by the foreign State for the joint investigation team may be included in criminal investigation actions carried out in Cape Verdean territory, unless decided otherwise and duly substantiated, in accordance with Cape Verdean legislation, by the domestic authority leading the team.
4. The criminal investigation actions carried out in Cape Verdean territory may be undertaken by members seconded by the foreign State for the joint investigation team, by decision of the national authority leading the team and with the approval of the Leader of the Executive Branch and the competent authority of the foreign State.
5. If the joint investigation team needs assistance from a State not involved in its creation, the respective request may be submitted by the Leader of the Executive Branch to the competent authorities of the State in question, in accordance with the relevant instruments and provisions.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

6. The members of the joint investigation team seconded by the Cape Verdean State may forward information available in Cabo Verde for the purposes of the investigations they are leading.
7. The information legally obtained by members of the joint investigation teams when exercising their activity, which are otherwise unavailable to the competent authorities of the seconding States, may be used:
 - a) For the purposes the team was set up for;
 - b) With prior approval from the Leader of the Executive Branch for the detection, investigation and initiation of the legal proceedings for other criminal offences, provided that said use does not compromise on-going investigations in Cabo Verde, or when concerning facts relating to which the State in question may refuse the mutual assistance;
 - c) To prevent a serious and immediate threat to public safety, and without prejudice to the provisions in point b), if the criminal procedure is subsequently initiated;
 - d) For other purposes, provided the States that set up the team agree.
8. Involvement in the joint investigation teams may be allowed, upon agreement, for persons not representing the States that set up the teams, pursuant to domestic legislation or another applicable legal instrument, with these persons not having the rights granted to the members seconded by the States, unless expressly agreed otherwise.

Article 143^o

Civil liability of joint criminal investigation team members

1. The foreign State shall be liable for damages caused, by members of the joint investigation teams it appoints, to third parties during the performance of their duties, in accordance with the legislation of the State where the damages occur.
2. The Cape Verdean State shall ensure the repair of damages caused in national territory by members seconded by the foreign State, and must exercise its right to recourse concerning everything it pays.
3. The Cape Verdean State shall refund the amounts paid to third parties by the foreign State for damages caused by joint investigation team members appointed by the Cape Verdean State.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

4. The Cape Verdean State waives the right to claim reparations from the foreign State for damages it suffers, caused by joint investigation team members appointed by the foreign State, without prejudice to the exercise of its rights against third parties.

Article 144º

Applicable law

1. The aid application requested of Cabo Verde shall be made pursuant to Cape Verdean law.
2. When the foreign State expressly requests, or based on an international agreement, treaty or convention, the aid may be provided in accordance with the legislation of said State, provided it does not contravene the fundamental principles of Cape Verdean law and does not cause serious losses to the parties involved in the process.
3. The aid shall be refused if the action in question does not comply with Cape Verdean legislation or is liable to incur criminal or disciplinary sanctions.

Article 145º

Coercive measures

1. When the acts referred to in article 141º involve the use of coercive measures, these may only be practiced if the circumstances described in the request also constitute a violation set forth in Cape Verdean law and are carried out in accordance therewith.
2. The coercive measures are also admitted in the event of the fact not being punishable in Cabo Verde, if proof is provided of grounds for exemption of guilt of the person against whom the action was brought.

Article 146º

Prohibition on using the information obtained

1. The information obtained for use in the process indicated at the request of the foreign State cannot be used outside said State.
2. Exceptionally, and at the request of the foreign State or of the international legal body, the Minister of Justice with approval from the Attorney General's Office of the Republic may agree to the use of the information in other criminal proceedings.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

3. Authorization to inspect Cape Verdean process, granted to a foreign State involved as injured party, is subject to the conditions referred in the previous points.

Article 147º

Confidentiality

1. If a foreign State or an international legal body so requests, the aid application, its content and the documents included therein shall be kept confidential, in addition to the granting of said aid.
2. If the application cannot be completed without breaching the confidentiality, the Cape Verdean authority shall notify the interested party, which shall decide if the application is still to be executed under these circumstances.

CHAPTER II

Aid Application

Article 148º

Legitimacy

Foreign entities or authorities competent for the procedure pursuant to the laws of the respective State or respective international organization may apply for aid.

Article 149º

Content and supporting documents

In addition to the guidelines and documents referred to in article 23º, the application shall be accompanied by:

- a) For notifications, mention of the name and residence of the addressee or another place where notice can be served, of his procedural capacity and of the nature of the document to be notified;
- b) For review, search, seizure, delivery of objects or items of value, exams and expert opinions, a declaration certifying these are admitted under the law of the requesting State or the by-laws of the international legal entity;
- c) Mention of certain characteristics of the process or of requirements that the Foreign state or legal entity wish to be observed, including confidentiality and deadlines for compliance.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA
Article 150º

Process

1. Aid applications taking the form of letter rogatory may be sent directly between competent legal authorities, without prejudice to the possibility of appeal as set forth in article 29º.
2. The decision to process the letters rogatory sent to Cape Verdean authorities shall be taken by the judge or the Public Prosecutor's Office, pursuant to criminal procedure legislation.
3. When letters rogatory are received that should not be processed by the Public Prosecutor's Office, pleas shall be heard to oppose compliance, as deemed desirable.
4. Compliance of letters rogatory shall be refused in the following cases:
 - a) When the requested authority lacks competence to execute the act, without prejudice to sending the letter rogatory to the competent legal authority, if Cape Verdean;
 - b) When the application concerns an action that is prohibited by law or contrary to Cape Verdean public order;
 - c) When execution of a letter rogatory would represent an attack on the sovereignty or security of the State;
 - d) When the action involves implementing a foreign court's ruling subject to review and confirmation, and the ruling has not yet been reviewed and confirmed.
5. The remaining applications, specifically those concerning the sending of the criminal record certificate, checking identity or simply obtaining information, may be sent directly to the competent authorities and entities and, after being met, communicated in the same way.
6. The provisions of number 4 shall apply, with due adjustments, to applications not taking the form of letters rogatory.
7. The provisions of number 3 shall correspondingly apply to letters rogatory sent to foreign authorities, sent by competent Cape Verdean legal authorities, and issued provided these entities understand them to be necessary to prove an essential fact for the prosecution or the defence.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA
CHAPTER III

Special acts for international aid

Article 151º

Notification of acts and delivery of documents

1. The competent Cape Verdean authority shall serve notification of procedural documents and decisions received, for this purpose, from the foreign authority.
2. Notification may be served by simple communication to the addressee by post or, if the foreign authority expressly requests, by any other means compatible with Cape Verdean legislation.
3. Proof of service comes via a document dated and signed by the addressee or by declaration of the Cape Verdean authority certifying the fact, form and date of notification.
4. Notice is considered served if the acceptance or refusal has been confirmed in writing.
5. If notification cannot be served, the foreign authority shall be informed of this, stating reasons.
6. The provisions of the previous points shall not prevent direct notification to persons in the territory of the foreign State, under the terms laid down in an agreement, treaty or convention Cabo Verde is a party to.

Article 152º

Summons notification

1. Notification requests intended to summon a person to take part in a foreign process in the capacity of suspect, accused, witness or expert witness shall not bind the recipient of the notification.
2. The notified person is informed, in the notification, of his right to refuse to appear.
3. The Cape Verdean authority shall refuse the notification if it contains fines or sanctions, or when the measures required to ensure the person's safety are not in place.
4. Consent for appearance must be granted by a freely given declaration set forth in writing.
5. The notification request shall state the remuneration and compensation, and the travel and accommodation expenses to be granted, and must be sent with reasonable notice, and received up to 50 days before the date the person is required to appear.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

6. In the event of an emergency, the term referred to in the previous point may be shortened.
7. The remuneration, compensation and expenses referred to in number 5 are calculated based on the place of residence of the person who agrees to appear and pursuant to the rates set forth in the Law of the State in whose territory the process shall take place.

Article 153º

Temporary hand over of detainees and prisoners

1. A person detained or imprisoned in Cabo Verde may be temporarily handed over to a foreign authority for the purposes of the previous article, provided said person consents to this and guarantees are provided for continuing the detention and for the person's return to Cape Verdean authorities on the date established for this by said authorities, or when the person's appearance is no longer necessary.
2. Without prejudice to the provisions of the previous article, hand over shall not be admitted when:
 - a) The presence of the person detained or imprisoned is required for a Cape Verdean criminal procedure;
 - b) The hand over may involve extending pre-trial detention;
 - c) According to the circumstances of the case, the Cape Verdean legal authority considers hand over undesirable.
3. The request referred to in this article applies to the provisions laid down in number 1 and 2 of article 21º.
4. The time for which the person is outside Cabo Verde is counted for the purposes of pre-trial detention or for completing the criminal punishment imposed under Cape Verdean criminal procedure.
5. If the sentence imposed on the person handed over under the terms of this article expires when said person is in the territory of a foreign State, the person shall be set free, and shall from then on have the status of a free person.
6. The Minister of Justice may subordinate the granting of aid under certain conditions, based on the specific case.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA
Article 154º

Temporary transfer of detainees or prisoners for the purposes of investigation

1. The provisions set forth in the previous article also apply to cases where, through agreement, a person detained or imprisoned in Cabo Verde is transferred to the territory of the other State, for the purposes of undertaking the investigation underway in Cabo Verde.
2. The consent set forth in number 1 of the previous article is waived for cases where a transfer is undertaken pursuant to the terms of an international agreement, treaty or convention where consent is not required.
3. The provisions of the previous point shall apply for requests for aid made to Cabo Verde.

Article 155º

Safe conduct

1. Persons appearing in the territory of a foreign State under the terms and for the purposes of articles 152º, 153º and 154º cannot be:
 - a) Detained, pursued or penalized, nor subjected to any other restrictions to individual liberty, for events prior to their departure from Cape Verdean territory other than those determined in the cooperation request;
 - b) Obligated, without consent, to give testimony or declarations in a process other than that referred to in the request.
2. The immunity set forth in the previous point ends when the person voluntarily remains in the foreign State for more than 45 days after the date when his/her presence is no longer required, or, having left said State, the person voluntarily returns.
3. The provisions set forth in the previous points shall apply to persons regularly residing abroad and who enter Cabo Verde following summons notification for a criminal procedure act.

Article 156º

Transit

1. The provisions laid down in article 43º shall apply to the transit of persons detained in a foreign State that must appear in a third State to take part in a procedural step or act.
2. The detainment of the person in transit shall not continue if the State authorizing the transfer requests, in the meantime, his/her return to freedom.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA
Article 157º

Sending of objects, valuables, documents or processes

1. At the request of competent foreign authorities, the objects, particularly documents and valuables liable to seizure under Cape Verdean law, may be placed at the disposal of the relevant parties for a ruling to be passed.
2. The objects and valuables arising from an offence may be returned to their owners, without requiring a procedure to be initiated in the requesting State.
3. The sending of criminal or other processes may be authorized, where reasoned interest exists in a foreign procedure, set forth in the request for aid, under the condition of being returned within the term established by the competent Cape Verdean authority.
4. The sending of objects, valuables, processes or documents may be postponed if these are needed for the purposes of a procedure underway.
5. Notarized copies may be sent in the place of the requested processes and documents. If the foreign authority expressly requests original copies to be sent, the request is met as far as possible, pursuant to the condition of return referred to in number 3.

Article 158º

Proceeds, objects and instruments of a crime

1. At the request of the competent foreign authority, procedures intending to check if any proceeds of a crime allegedly committed are in Cabo Verde may be carried out, and the results of these procedures shall be notified.
2. When making the request, the foreign authority shall state its reasons for believing these proceeds may be found in Cabo Verde.
3. The Cape Verdean authority shall ensure compliance of the decision decreeing the loss of the proceeds of a crime, passed down by the foreign court, in accordance with the provisions of Title IV, where applicable.
4. When the foreign authority provides notification of its intention to enforce the decision referred to in the previous point, the Cape Verdean authority may take measures permitted under Cape Verdean law, namely to seize and freeze the assets to prevent any transaction, transfer or disposal of the assets affected, or which may be affected, by this decision.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

5. The provisions of this article are applicable to the objects and instruments of a crime.

Article 159º

Controlled deliveries

1. The Public Prosecutor's Office may, following a request from one or more foreign States, specifically set forth in a conventional instrument, authorize on a case-by-case basis, no action from criminal police bodies within the sphere of cross-border criminal investigations relating to offences allowing extradition, with the aim of providing, in collaboration with the foreign State (s), the identification and criminal liability of the greatest possible number of those involved in the offence.
2. The right to act and the management and control of criminal investigation operations undertaken within the scope of the previous point shall be exercised by the Cape Verdean authorities, without prejudice to the due collaboration with the competent foreign authorities.
3. The authorization granted under the terms of nº1 does not prevent the exercise of criminal action for facts Cape Verdean law applies to, and shall only be granted when:
 - a) The competent foreign authorities have ensured that their legislation sets forth adequate criminal sanctions against the parties involved and that criminal action shall be exercised;
 - b) Guarantees have been provided by competent foreign authorities for the security of substances or assets in question against risks of escape or loss; and
 - c) The competent foreign authorities have agreed to urgently communicate detailed information about the results of the operation and details of the action carried out by each of the parties that committed the offence, particularly those who acted in Cabo Verde.
4. When the abovementioned authorization has been granted, the criminal police bodies shall intervene if the safety margins have dropped significantly or if any circumstances making difficult the future detention of the parties involved, or seizure of substances or assets are verified; if this intervention has not been previously communicated to the entity that granted authorization, notification shall be served within the following twenty-four hours in writing.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

5. By agreement with the destination country, when concerning banned or dangerous substances in transit, these may be replaced in part by other harmless substances. This shall be recorded in the respective case record.
6. Non-compliance of the obligations assumed by the foreign authorities may constitute grounds to refuse authorization in future requests.
7. International contact shall be made through criminal police bodies, via the Interpol contact services.
8. Any other entity receiving requests for controlled deliveries, namely the General Tax Authority, through internal bodies or their foreign counterparts, and without prejudice to handling customs information, must immediately forward these requests to criminal police units for execution.
9. The incumbent Public Prosecutor in the Court of Praia is competent for ruling on controlled deliveries, in accordance with Law, by decision of the General Prosecutor.

Article 160º

Covert actions

1. Criminal investigation employees from other States may undertake covert action in Cabo Verde with the same status as Cape Verdean criminal investigation employees and pursuant to the provisions of other applicable legislation. The Public Prosecutor's Office is the competent authority for granting authorization, pursuant to the Law.
2. The actions referred to in the previous point require a request based on an agreement, treaty or convention and compliance with the principle of reciprocity.

Article 161º

Interception of telecommunications

1. The interception of telecommunications made in Cabo Verde may be authorized at the request of the competent authorities of a foreign State, provided this is set forth in an agreement, treaty or convention, and concerns a situation in which said interception would be admissible under the terms of the criminal procedure act in similar domestic cases.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

2. Criminal police bodies are competent to receive requests for interception, and shall submit these to the incumbent Public Prosecutor in the respective district for authorization.
3. The order referred to in the previous point includes authorization for the immediate transfer of the communication to the requesting State, if said procedure is set forth in an international agreement, treaty or convention pursuant to which the request was made.

Article 162º

Information about applicable law

1. Information about applicable Cape Verdean law in a specific criminal procedure requested by a foreign legal authority shall be provided by the Minister of Justice.
2. Concerning information about foreign law, the Cape Verdean legal authority shall request, for this purpose, collaboration from the Attorney General of the Republic.

Article 163º

Information in a criminal record

Direct communication of criminal record requests, referred in number 5 of article 150º, shall be made to criminal identification services.

Article 164º

Information about sentences

1. Information or copies of sentences or subsequent measures may also be requested, in addition to other relevant information related to these, concerning nationals of the requesting State.
2. Requests made pursuant to the terms of the previous point shall be communicated through the Central Authority.

Article 165º

Closure of the cooperation process

1. When the authority responsible for executing the request considers the case completed, it shall send the case records and other documents to the foreign authority that made the request.
2. If the foreign authority considers execution of the request to be incomplete, it may return it for completion, specifying the reasons for the return.



MINISTÉRIO PÚBLICO
PROCURADORIA GERAL DA REPÚBLICA

3. The request is completed if the Cape Verdean upholds the reasons indicated for return.

TITLE VIII

FINAL PROVISIONS

Article 166º

Delegation of competences

The acts provided for in number 1 of article 69º, number 6 of article 87º, numbers 1, 2 and 3 of article 103º, numbers 3 and 4 of article 114º and number 2 of article 137º, as well as some other competences may be delegated to the General Prosecutor of the Republic by the Minister of Justice.

Article 167º

Transitional rule

When the second instance courts are established, the competencies conferred on this law to the Supreme Court of Justice shall be assumed by the second instance courts.

Article 168º

Repeal rule

The articles of Chapter VI of decree-law number 6/97, of May 5th, are revoked.

Article 169º

Entry into force

This law shall enter into force on the day following its publication.

Approved in July 28th, 2011.

The President of the National Assembly, Basílio Mosso Ramos

Promulgated on August 18th, 2011

To be published.

The President of the Republic, Pedro Verona Rodrigues Pires.

Signed on August 18th, 2011.

The President of the National Assembly, Basílio Mosso Ramos.

Document translated by Domingos Costa, translator of the Public Prosecution Service.

City of Praia, April 2019.