



LEGAL NEWS

Cape Verde

January through March 2020

TOURISM

New Framework for Touristic Utility Status

The new legal framework for the Touristic Utility Status (“*Estatuto de Utilidade Turística*” – “EUT”), approved by means of Decree-Law No. 22/2020, of 13 March 2020, entered into force on 14 March 2020. This statute lays down the specific requirements for the granting and extension of the EUT.

The EUT may be granted to accommodation establishments, travel agencies and incoming, tourism operators based in Cape Verde, restaurants, companies operating collective transport for tourists, and establishments offering touristic leisure and sports activities. The granting of the EUT status allows the beneficiary to enjoy a number of benefits, including participating in touristic promotion actions carried out by the State and certain tax and customs benefits.

The touristic units and establishments that benefit from the EUT under the previous framework must be adapted to the new rules by 1 January 2021, under penalty of having the relevant EUTs canceled.

Basic Rules for Gaming Concession Agreement Approved

The basic rules of the concession agreement for granting the right to organize and explore social gaming were approved by means of Decree-Law No. 6/2020, of 30 January 2020. This statute: (i) regulates the selection procedure for the gaming organizer and operator; (ii) creates the competent entity to supervise the activities of organizing and exploring social gaming; and (iii) approves the bases of the relevant concession agreement.

The bases of the newly-approved administrative concession agreement regulate the most important aspects of the agreement, namely: (1) duties of the parties; (2) distribution of net profits; (3) inspection, supervision and monitoring of the concessionaire's compliance with its duties; (4) breach of contract by the concessionaire; and (5) suspension and termination of the administrative concession agreement.

INVESTMENT

Status of Differentiated Merit Investment Project Approved

Law No. 80/IX/2020, of 26 March 2020, created and regulates the status of Differentiated Merit Projects (“DMP”). The status of DMP is granted to investment projects that meet 6 requirements defined by this law, including the investment amount.

Significant tax benefits are granted to investment projects with DMP status and State funding of up to 50% of the costs incurred from training and qualification of human resources during the first year of activity.

The law came into force on 27 April 2020.

Emigrant Investor Status

Law No. 73/IX/2020, of 2 March 2020, established the rules that regulate the direct investment of emigrants in Cape Verde, creating the so-called Emigrant Investor Status.

Nationals who permanently reside abroad and who make an investment in Cape Verde under the terms of the Investment Law are classified as Emigrant Investors, enjoying certain special incentives such as exemption from taxation

of dividends, among others, in addition to the general incentives provided for in the Tax Benefits Code.

Agreement with Equatorial Guinea Approved for Reciprocal Investment Protection

Through Decree No. 3/2020, of 6 March 2020, the Agreement with Equatorial Guinea for Promotion and Reciprocal Investment Protection was approved for ratification. The agreement between the two countries was executed in Praia on April 2019.

VISA

Green Card Regulated

The framework for the issuance of the so-called Green Card was regulated by Regulatory-Decree No. 1/2020, of 7 January 2020. The Green Card was approved by Law No. 30/IX/2018, of 23 April 2018, which created a different status of residence permit for foreign holders of second residence in Cape Verde.

The granting of the Green Card to foreign citizens (extendable to a spouse or *de facto* partner and dependents) is subject to the acquisition of a property (already built or under construction) for second residence in the minimum amount of € 80,000 or € 120,000, depending on the GDP of the municipality where the property is located.

The statute came into force on 8 January 2020. However, the procedures are still being implemented, with the orders that approve the application form, issuance fees and the physical form of the card yet to be published.

COMMERCIAL

New Commercial Registration Code

Through Decree-Law No. 20/2020, of 6 March 2020, the new Commercial Registration Code was enacted, the previous rules of 1959 being revoked. The Code aims to simplify commercial registration and to adapt it to the new technologies, providing for the possibility of submitting online registration

requests, eliminating the territorial competence of the Registry Offices, and reducing the timeframes for registration acts.

Also approved by the same statute were amendments to Decree-Law No. 59/99, of 27 September 1999, which regulates the Company Name Registration, and to Decree-Law No. 5/2004, of 16 February 2004, as amended, which establishes the bases for the social security system.

New Vehicle Registration Code

Through Decree-Law No. 19/2020, of 6 March 2020, a new Vehicle Registration Code was approved, aiming to adapt the legislation to the use of the new technologies in vehicle registration. Among the various new features, we can highlight the replacement of the vehicle registration certificate by the vehicle single document.

TAX AND CUSTOMS

African Continental Free Trade Area Agreement Approved

The Agreement creating the African Continental Free Trade Area (“ACFTA”) and the respective Protocols, signed in Rwanda on 21 March 2018, were approved for ratification, through Resolution No. 151/IX/2020, of 25 February 2020.

Among the objectives of the ACFTA, we can highlight the creation of a single market for goods and services, facilitating the movement of people and the economic integration of the African continent, especially through the progressive elimination of tariff and non-tariff barriers to trade in goods, the progressive liberalization of trade in services, cooperation in the customs and investment areas, and the creation of a dispute-resolution mechanism. The ACFTA also lays the foundations for the creation of a continental customs union.

BANKING AND CAPITAL MARKET

Extinction of Credit Institutions with Restricted Authorization

With the express aim of dispelling the international perception of the country as an "offshore" legal system and of aligning with international standards of tax transparency, Law No. 79/IX/2020, of 23 March 2020, revoked the framework covering restricted-authorization credit institutions (previously known as international financial institutions), provided for in Articles 38 to 45 of Law No. 61/VIII/2014, of 23 April 2014 (Law on the Financial System), also partially derogating Law No. 62/VIII/2014, of 23 April 2014 (Law on Financial Activities and Institutions) with regard to the additional elements for the aforementioned restricted authorization.

This statute provides for a transitional period, until 30 December 2020, for the institutions currently existing under that framework to make the statutory and organizational changes necessary for their conversion into generic authorization banks, under penalty of revocation of their authorization at the end of the same period. The Law came into force on 24 March 2020.

Duties of Reporting Irregularities and Infractions in Financial Institutions

In line with the international development of "whistleblowing" mechanisms, Law No. 81/IX/2020, of 26 March 2020, established the legal framework applicable to the reporting of irregularities in financial institutions and companies issuing securities admitted for trading on a regulated market, with headquarters, permanent establishment or representation in Cape Verde, excluding insurance companies and pension fund management companies.

The Law regulates the terms under which internal and external reporting of irregularities and infractions must occur, including criminal, administrative or civil offences, and details the scope of the elements to be reported, the persons and bodies on whom this duty falls, the means to that end, the rules to be observed by internal reporting policies, and reporting requirements before the Bank of Cape Verde and the AGMVM (Securities and Exchange Commission), as well as the protection mechanisms to be granted to the source of the relevant reporting of irregularities.

The new statute came into force on 27 March 2020.

MARITIME AND PORTS

General Framework for Management and Planning of Fishery Activities

Legislative Decree No. 2/2020, of 19 March 2020, enacted the general framework for the management and planning of fishery activities in the national maritime waters of Cape Verde and on the high seas.

Sub-Concession of Port Management and Services Authorized

By means of Resolution No. 56/2020, of 27 March 2020, the State of Cape Verde, in its capacity as grantor, authorizes the General Concessionaire – Empresa Nacional de Administração dos Portos, S.A. (ENAPOR) – to sub-concession the management and port services that are the object of the Concession Agreement, signed between the Parties on 18 January 2016. This statute also establishes the procedure to be followed for the sub-concession, identifies the ports of Cape Verde that the sub-concession may apply to, and sets out the steps to be taken until the signing of the sub-concession agreement.

CIVIL AVIATION

Conditions Updated for Access to Ground Handling

Decree-Law No. 5/2020, of 30 January 2020, updated the conditions for access to ground handling activities in the country's aerodromes which are open to commercial traffic, as foreseen in Decree-Law No. 51/2014, of 17 September 2014, in order to respond above all to the growth rate of Amílcar Cabral International Airport on the island of Sal.

The statute came into force on 1 February 2020.

ENVIRONMENT

Activities Legal Framework for Urban Waste Management Services

Decree-Law 26/2020, of 19 March 2020, approved the legal framework for urban waste management municipal services. Under the new statute, the management of urban waste is assigned to municipalities, and may in turn be assigned to a public or private entity, through a concession.

Municipal waste management services comprise the management of systems for the collection, transportation, storage, sorting, treatment, recovery and disposal of municipal waste, as well as soil decontamination operations and the monitoring of disposal sites after the closure of the respective facilities, and may also include urban cleaning.

The statute entered into force on 18 April 2020.

Legal Framework for Environmental Impact

A new legal framework for the environmental impact assessment of public and private projects likely to have significant effects on the environment ("EIA Regime") was approved by Decree-Law No. 27/2020, of 19 March 2020.

Notable amongst the main changes introduced is the categorization of projects (categories A, B and C), introducing different types of evaluation according to the respective environmental risk profile and the creation of the "Environmental License for Operation", through which the Environmental Impact Assessment Authority authorizes the setting-up, operation or expansion of works and activities using natural resources considered to be effectively or potentially polluting, or that in any way may cause environmental degradation and/or modification.

The EIA Framework comes into force on 18 May 2020, and should be regulated in the meantime.

STATE

Assessment Bankruptcy Receiver Status Approved

Following the enactment in 2016 of the Insolvency Code by means of Law No. 116/VIII/2016, of 22 March, the Status of Bankruptcy Receiver was approved

through Decree-Law No. 13/2020, of 2 March 2020. The status defines the qualifications required for performing this function, notably the need to attend a course of specific qualification. Also foreseen are the incompatibilities, impediments and suspicions for the performance of this activity, as are the rights and duties of Bankruptcy Receivers.

National Commission of Certification Created

The National Commission of Certification (CONCERT) was created through Decree-Law No. 4/2020, of 17 January 2020. CONCERT comes under the Minister for Industry, Trade and Energy and has as its main objective developing and operationalizing the System and Certification Schemes for Products, Processes and Services, as well as promoting the national private sector's initiatives in the area of certification, in accordance with the Cape Verdean National Quality System, approved by Decree-Law No. 8/2010, of 22 March 2010.

Quality Control of Surface Water and Groundwater

Within the context of the protection of public and animal health, Regulatory Decree No. 4/2020, of 2 March 2020, was enacted, establishing criteria to control the quality of water for irrigation, surface water and groundwater, desalinated water, recovered rainwater and treated waste-water, in order to satisfy or complement the water needs of agricultural, forestry or ornamental crops, nurseries, lawns and other green spaces, prior to the addition of fertilizer.

Among other measures, the use of recovered rainwater and certain treated waste-water is subject to licensing and/or authorization by the entity responsible for the technical regulation of the water sector.

Changes to National Postal Code

Regulatory Decree No. 5/2020, of 4 March 2020, altered the structure of the National Postal Code, approved by Regulatory Decree No. 7/99, of 6 July 1999, in order to improve the efficiency of mail services in Cape Verde. The new statute determines the structure of the new National Postal Code, as well as the criteria for assigning and updating postal codes, while the Multi-sectoral

Regulatory Agency for the Economy, as the regulatory body for the postal sector, is responsible for updating and maintaining them.

With the entry into force of this statute registration of the National Postal Code now being mandatory on all correspondence and packages circulating in the mail system, with the country's postal codes available at: <http://www.codigopostal.cv/>.

State-Asset Management Companies Created

Through Decree-Law No. 28/2020, of 23 March 2020, PARPÚBLICA - Participações Públicas (SGPS), S.A. was created, a management company of State holdings, with exclusively State share capital, whose purpose is the management of participating interests that belong to the State.

On the same date, Decree-Law No. 29/2020 created IMOPÚBLICA - Participações Imobiliárias, S.A., a property management company of exclusively State share capital, focused on modern and rational management of rural, urban and mixed properties belonging to the private domain of the State's direct and indirect administration.

COVID-19

Considering the public health emergency resulting from the COVID-19 disease and the need to adopt measures to prevent the spread of the disease throughout the country, a number of statutes were approved by the Government and the President of the Republic, notably the following:

- Joint Order No. 1/2020, of 19 March 2020, which declared a contingency situation throughout the national territory in an effort to control the country's epidemiological situation, in order to preempt and contain possible lines of contagion;
- Resolution No. 51/2020, of 20 March 2020, which approved contingency measures for the island of Boavista;
- Presidential Decree No. 6/2020, of 28 March 2020, through which a state of emergency was declared for the whole of the national territory, for a period of 20 days, commencing 29 March 2020;
- Decree-Law No. 36/2020, of 28 March 2020, which regulated the declaration of state of emergency, establishing a number of exceptional measures, including: (i) the ban on national and international flights and maritime connections; (ii) the general duty of self-isolation; and (iii) the closure of public and private entities;

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- Resolution No. 58/2020, of 30 March 2020, which approved a set of measures aimed at the social protection of families, and the protection of the incomes of those who work in the informal sector of the economy and who are affected by the restrictive measures to combat COVID-19;
- Decree-Law No. 37, of 31 March 2020, which established exceptional and temporary measures with regard to social protection, and approved tax and parafiscal measures and measures for the management of human resources, following the declaration of a state of emergency in the country; and
- Decree-Law No. 38, of 31 March 2020, establishing exceptional measures to protect the credit of families, companies, private charity institutions, as well as a special framework of personal guarantees from the State, following the declaration of a state of emergency in the country.

For detailed information on these and other statutes published in the context of the pandemic, please consult [this link](#).

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