



International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

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Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families Thirty-eighth session

Summary record of the 555th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 5 June 2024, at 10 a.m.

Chair: Mr. Ceriani Cernadas (Vice-Chair)

Contents

Consideration of reports submitted by States parties under article 73 of the Convention
(*continued*)

Fourth periodic report of Senegal (continued)

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 73 of the Convention *(continued)*

Fourth periodic report of Senegal (continued) (CMW/C/SEN/4;
CMW/C/SEN/QPR/4)

1. *At the invitation of the Chair, the delegation of Senegal joined the meeting.*
2. **A representative of Senegal** said that Senegal remained strongly committed to the principles enshrined in the International Labour Organization (ILO) Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). Those principles were upheld in the Constitution and the law, and the conditions and formalities envisaged under the Labour Code in no way impeded the formation of trade unions. In fact, union activity was flourishing in the country where workers' and employers' associations had the sole obligation of respecting national legislation and of acting within the confines of their own statutes. A process was currently under way to amend certain provisions of the Labour Code that were inconsistent with ILO Convention No. 87. Senegal had also ratified the ILO Occupational Safety and Health Convention, 1981 (No. 155); the ILO Occupational Health Services Convention, 1985 (No. 161); and the ILO Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187).
3. There were currently 57 labour inspectors and 60 labour auditors who, supported by a team of 8 engineers, conducted visits of inspection to workplaces across all 14 of the country's regions, including the free zone and the special economic areas. The Government remained firmly committed to improving labour inspectors' own working conditions, in order to guarantee the impartiality of inspections, which was guaranteed under the ILO Labour Inspection Convention, 1947 (No. 81) which Senegal had ratified in 1962.
4. The National Framework Plan for the Prevention and Eradication of Child Labour (2012–2016) had been viewed positively by the Committee in its concluding observations on the combined second and third periodic reports of Senegal (CMW/C/SEN/CO/2-3). An evaluation of the outcomes of the Plan had shown that child labour was a cross-cutting issue that concerned many governmental and civil society institutions. Thus, all those stakeholders had participated in the steering committee to formulate the new National Framework Plan (2024–2028), which had been unveiled in 2022. Moreover, Senegal was a member of the Economic Community of West African States (ECOWAS), which had its own plan of action to eradicate child labour, and the Government had recently adhered to the Durban Call to Action on the Elimination of Child Labour. The new National Framework Plan took due account of those developments and of the subregional, regional and international aspects of child labour, and it reflected the fact that child labour was closely linked to other issues, such as trafficking and migration.
5. **A representative of Senegal** said that Senegal had ratified a body of regional and international child-protection instruments, including the Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child and the United Nations Convention against Transnational Organized Crime and the Protocols thereto. Provisions for the protection of children were enshrined in the Code of Criminal Procedure and the Family Code. A law regulating modern Qur'anic schools had been adopted by the Council of Ministers in 2021 and a system for inspecting all Qur'anic schools had recently been launched by the Ministry of Education. The President of the Republic had ordered an evaluation of the national child protection strategy, which had been in operation since 2013.
6. Action had been taken to protect children during the coronavirus disease (COVID-19) pandemic via the creation of a special unit to coordinate the efforts of the relevant institutions, including the Ministry of Education and the Ministry of Health, notably with regard to children in street situations and other vulnerable youngsters. Having secured the human, material and financial resources necessary for the conduct of its operations, the unit had acted to identify children in street situations and take them to shelters where, in addition to food and accommodation, they also received health care and education. The Government had allocated a sum of 1,500 CFA francs (CFAF) per child per day for the care of the children, each of whom was provided with toiletries, clothing, bedding and other necessities.

7. In each region, the operation of the unit was coordinated by the regional governor. The children were held in quarantine in the shelters for a period of 14 days during which time the authorities sought to identify them and to discover the whereabouts of their families. Once the quarantine period was over, the children were taken back to their areas of origin to be reunited with their parents. Thanks to those efforts, more than 5,300 children had been taken off the street and returned to their families, including 380 foreign children who had been voluntarily repatriated to their countries of origin. In addition, 800 families from Niger who lived in street situations in Senegal and subsisted by begging had also been repatriated.

8. Certain difficulties had nonetheless been encountered, due in particular to scarce financial resources and the limited number of shelters. An evaluation of the efforts made during the COVID-19 pandemic had also highlighted the importance of permanent action at the local level to ensure that children who had been returned to their communities did not then go back to the cities and resume their life on the streets. Thus, a nationwide plan had been developed that was coordinated across the country's 14 regions by the regional governors and that aimed to identify children who lived or were at risk of living in street situations and restore them permanently to their families.

9. An initial draft of a children's code had been drawn up between 2016 and 2017. Unfortunately, however, it had been set aside before it could be presented to the Council of Ministers. A second draft had been prepared in 2018, which enjoyed the approval of all stakeholders. It was currently in the process of being examined by technical and juridical committees before being submitted to the Council of Ministers.

10. **A representative of Senegal** said that the delay in adopting a children's code – as had been the case with the Family Code – was due to the difficulty in producing a text that was inclusive and that enjoyed widespread agreement throughout society. There was no point in producing a law that people would reject and that would not be applied.

11. **A representative of Senegal** said that a new bill had been approved by the Council of Ministers in 2023 that would help to restore the category A status that the Senegalese Human Rights Committee had lost in 2012. The bill, which would shortly pass into law, had been drafted by the Senegalese Human Rights Committee itself, with no government input. It was consistent with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

12. The national strategy to combat irregular migration had been drafted by an interministerial committee in coordination with stakeholders from civil society and the private sector. The strategy, which sought to address all the economic, social and juridical aspects of irregular migration, had five main areas of focus, the first of which was prevention. It envisaged the adoption of legislation consistent with the relevant international norms, the strengthening of national coordination mechanisms, action to address the underlying causes of irregular migration and support for regular migration.

13. The second area of focus under the strategy concerned border management. In that connection Senegal intended to pursue international cooperation with neighbouring States, notably with a view to combating illegal migrant trafficking by sea, and it was seeking to update its existing bilateral and multilateral maritime agreements to take account of the issue of irregular migration. Other measures included more stringent controls at the country's land and air borders; the modernization of border surveillance mechanisms; improved document-handling procedures; better information-exchange, both inter-institutionally within the country and with neighbouring States; and the recruitment of more staff.

14. In the third place, the strategy focused on the suppression of irregular migration. In that connection, Senegal intended to review its existing mechanisms to see whether or not they needed to be updated. It was also important to create specialized structures and train specialized staff, notably in the domain of security and law enforcement, and in the judiciary. Such an approach would help to suppress irregular migration while respecting the human rights of persons who came into conflict with the law for migration-related offences.

15. The strategy's fourth area of focus was to ensure that victims of irregular migration received prompt administrative, consular and judicial assistance and protection. As with all the efforts Senegal made to address and combat irregular migration, such assistance and

protection was provided in a manner consistent with the country's international human rights commitments. The strategy not only took account of human rights in a general sense but also sought to address specific instances of hardship, and it envisaged measures to protect vulnerable migrants from all forms of violence and exploitation.

16. The fifth main area of focus under the strategy was the return and reintegration of migrants. It included measures relating to the introduction of a legal and institutional framework for such return and reintegration, increased capacity-building for agencies and civil society organizations working on migration-related issues and assistance for vulnerable migrants to support their return. Like the country's national migration policy, which had been updated in November 2023 and focused on gender and human rights, the strategy to combat irregular migration was gender-sensitive.

17. Judicial officials and members of the defence and security forces had many opportunities to receive training on migration-related issues. For example, in 2022, members of the Human Rights Directorate of the Ministry of Justice had travelled to the country's courts of appeal to provide training on trafficking in persons and migration.

18. **A representative of Senegal** said that, under the ECOWAS Protocol relating to Free Movement of Persons, Residence and Establishment, citizens of any ECOWAS member State were entitled to enter any other member State and move freely within it for a period of 90 days without a visa. However, they were required to request permission in accordance with the procedures established by the host State if they wished to remain in that State longer than 90 days. The Guinean citizen against whom proceedings had been brought for his irregular stay in Senegal had remained in the country beyond the 90-day period without taking any steps to regularize his status. If the Guinean citizen had believed that his deportation would have resulted in a threat to his life, he could have availed himself of legal remedies that would have temporarily or permanently stayed the deportation. Under the 2022 law on the status of refugees and stateless persons, persons arriving directly from a country where their life or liberty was at risk would face no punishment for entering or remaining in Senegal irregularly, if they approached the competent authorities within a reasonable time frame and explained the reasons for their irregular entry or stay. The same law provided that, in accordance with the Convention relating to the Status of Refugees, no refugee would be removed to a country where his or her life would be in danger because of factors such as race, religion, nationality or political opinion.

19. **A representative of Senegal** said that migrant reception and referral offices had been opened, in phases, in the country's 14 regions in order to implement the national migration policy at the local level and to bring services closer to persons considering migration and to Senegalese migrants who had returned from abroad. The offices supported the socioeconomic reintegration of returning migrants, informed them about training opportunities and provided guidance to those seeking to start small businesses. The offices also sought to raise awareness among potential migrants and their families of the dangers of irregular migration.

20. The offices maintained a digital platform that allowed for harmonized data collection from all stakeholders working on migration matters. The departmental focal points in each office provided information on local sociocultural, economic and environmental conditions, on the reintegration of returning migrants and on prospective migrants. In addition, through the platform, Senegalese migrants abroad could obtain information about the services provided by the Directorate General for Support to Senegalese Abroad. Lastly, he wished to note that the €75 provided to returning migrants, which perhaps seemed a small amount, was simply intended to cover return transportation costs.

21. **A representative of Senegal** said that no data was available on the exploitation of domestic workers by placement networks. To increase protections for such workers, Senegal had relaunched negotiations with Saudi Arabia, Qatar and the United Arab Emirates, which were among the main countries of destination for domestic workers. The Government had also participated in a dialogue on labour mobility held by the Cooperation Council for the Arab States of the Gulf in Doha on 21 and 22 May 2024. In addition, a study had been conducted on gender inequality and discrimination in domestic work; an action plan to promote recognition of the value of domestic work had been drafted along with a guide on the rights of domestic workers and strategies to increase domestic workers' participation in

trade unions; outreach activities had been undertaken to raise awareness of social protection coverage for domestic workers; the monitoring of placement agencies under Decree No. 2009-1412 of 23 December 2009 on special protections for workers employed by temporary placement agencies had been stepped up; and a monitoring system for child labour and domestic work had been introduced under a pilot project in four regions, Kédougou, Fatick, Louga and Saint-Louis. Senegal observed International Domestic Workers' Day every 16 June.

22. **Mr. Charef** (Country Rapporteur) said that it would be helpful to know what role civil society, universities and other stakeholders had played in the drafting of the State party's periodic report and how the National Advisory Council on Human Rights and International Humanitarian Law, gathered and analysed data when preparing periodic reports. He would appreciate information on any training programmes on the Convention or human rights generally for law enforcement officers or other stakeholders and on any activities undertaken to disseminate the Convention nationwide.

23. **Mr. Babacar** (Country Rapporteur) said that he would be grateful for further details regarding the requirement under national law whereby a foreign national legally resident in Senegal could participate in the management or sit on the board of a trade union in Senegal only if there was an agreement with the foreigner's State of origin. It would also be helpful for the delegation to comment on whether that requirement infringed the freedom of association. He wished to know whether any changes had been made to the simplified scheme for smaller taxpayers or the National Mutual Benefit Society of Craft Workers of Senegal, including with respect to their scope. He would also like to find out about any mechanisms in place to provide Senegalese migrants abroad with information about how to protect their rights, or to provide support to the families of Senegalese nationals who had died or disappeared on migration routes and to repatriate the remains of the deceased.

24. **Mr. Kariyawasam** said that he wished to know what action the State party, and members of its diplomatic corps in particular, had taken to encourage countries that had large communities of migrant workers to ratify the Convention. He also wished to know what the State party was doing, in cooperation with its international partners, to combat trafficking in persons.

25. **Mr. Corzo Sosa** said that he wondered whether the State party's courts would give precedence to the Constitution or to the Convention if they were found to contain incompatible provisions. He would welcome additional information on the mandate of the National Advisory Council on Human Rights and International Humanitarian Law. He wished to know how many of the 1,111 foreign nationals who, according to the periodic report, were in detention in the State party had been detained on account of their migration status. In trying cases involving irregular migration, which was an offence in the State party, ought not the Senegalese courts rule in accordance with the Convention, as required under article 1 (2) of Act No. 70-10 of 25 January 1971, and refrain from penalizing irregular migration?

26. **Ms. Gahar** said that it would be helpful to learn what the State party's authorities did to ensure that the best interests of the child were a primary consideration in the action taken to protect children on the move, in particular those fleeing harmful cultural practices. It would also be interesting to learn more about the Aar Xaleyi programme for getting children off the streets and reintegrating them into society.

27. **Mr. Oumaria** said that he would welcome a comment on the efforts made by the State party to take in migrant workers from other countries in Africa and thus to help ensure that they did not always feel compelled to embark on the perilous journey to Europe.

28. **The Chair** said that he wished to know what steps had been taken in follow-up to the Committee's recommendation that the State party should introduce in its domestic legislation a clear and specific prohibition of discrimination on grounds of nationality and migration status. He also wished to know more about the remedies available to migrant workers who faced detention or deportation. In particular, he wondered what was done to ensure that they had access to legal aid and were informed of the reason that steps were being taken to detain or deport them. He wondered, too, whether child migrants in the State party, as well as the children of migrant families, had access to education on an equal footing with others.

29. Trafficking in persons and large movements of migrants were often facilitated by corruption. It would therefore be interesting to learn whether the authorities had uncovered any evidence of collusion between public officials and organized crime bosses and, if so, what steps they had taken to combat it.

30. He would welcome more information on the steps asylum applicants who wished to contest a rejection of their application were expected to take. He wondered, for example, what agency reconsidered rejected applications and whether that agency was independent of the body that had rejected the application in the first place. He wondered, too, how the State party reconciled two seemingly incompatible policy objectives – namely, to promote freedom of movement within ECOWAS and to control the large regional movements of migrants towards the staging grounds for attempts to reach Europe. In addition, it would be interesting to know whether officials from ECOWAS States had discussed their experiences with their counterparts from State members of other regional blocs and whether consideration had been given to providing nationals of ECOWAS States with the freedom not just to move freely but also to reside freely within ECOWAS. Lastly, he wished to know to what extent the ongoing work on a draft children’s code was informed by awareness of the needs of migrant children, including Senegalese children abroad.

The meeting was suspended at 11.50 a.m. and resumed at 12.20 p.m.

31. **A representative of Senegal** said that the National Advisory Council on Human Rights and International Humanitarian Law, which had been established pursuant to Decree No. 2018/1969 of 15 November 2018, was the national mechanism for the preparation of the reports to be submitted by the country to international, regional and subregional human rights mechanisms. It was also responsible for monitoring the effect given to the recommendations made by those mechanisms and for maintaining contact with human rights treaty bodies such as the Committee. In addition, the National Advisory Council oversaw efforts to bring national legislation into line with the international human rights instruments that the country had ratified, reviewed the technical aspects of any bill or other draft legislation that affected human rights before it was made into law and advised the Government on human rights and humanitarian affairs.

32. The National Advisory Council worked closely with government ministries, the National Agency for Statistics and Demography, other specialized agencies, the National Assembly and the judiciary, while also liaising with the national human rights institution and with civil society. A wide range of government departments and civil society groups was represented on the Council, which was chaired by the Minister of Justice. Although civil society was not involved in the presentation of the reports that were submitted to human rights treaty bodies, its involvement in the preparation of those reports was, like the involvement of the national human rights institution, extensive. It also produced shadow reports.

33. The Government was fully aware of the importance of involving academia in the drafting of reports for regional and international human rights bodies and in the follow-up given to the recommendations made by such bodies. The Human Rights and Peace Institute of the Cheikh Anta Diop University in Dakar had nominated an academic as its representative on the National Advisory Council on Human Rights and International Humanitarian Law.

34. The Government had taken a number of steps to give effect to the recommendations made by the Senegalese Human Rights Committee following its 2021 study entitled “The female face of irregular migration”, notably through the establishment of the National Fund for the Promotion of Women’s Entrepreneurship which provided financing and vocational training for female entrepreneurs, the introduction of an accelerator initiative aimed at providing entrepreneurial support to women and upholding their economic, social and cultural rights and the setting up of a development fund for technical and vocational training.

35. The implementation of the National Strategy to Combat Irregular Migration had been preceded by the establishment of an interministerial committee to address that issue. The national migration policy had been updated in 2023, with input from State bodies, civil society and the Human Rights and Peace Institute, with the aim of applying a holistic approach to the issue of migration. Given the efforts that had already been made to establish appropriate mechanisms and draft strategic documents in relation to the migration-related

dangers faced by women and children, no specific awareness-raising measures were required in that regard. The Ministry of African Integration and Foreign Affairs had put in place initiatives to deal with migration in general, and with returnees in particular.

36. Foreign nationals, including migrant workers, were treated on an equal footing with Senegalese nationals in matters brought before the courts, including the labour tribunals. As no distinction was made on grounds of nationality, no disaggregated data were available on cases involving migrant workers.

37. **A representative of Senegal** said that, as of 13 May 2024, there were 1,127 foreign nationals in detention in Senegal, representing just over 8 per cent of the total prison population. The authorities had introduced the use of electronic tagging in 2022, and there were 16 foreign nationals among the 424 persons who were currently subject to that measure as an alternative to detention. No distinction was made on the basis of nationality in the provision of legal aid, the budget for which had been increased from CFAF 200 million in 2022 to CFAF 800 million in 2024. It was compulsory for persons facing criminal charges to be represented by counsel; those who could not afford representation were automatically assigned a lawyer by the investigating judge. Interpretation services were provided by the State. Article 5 of the Act on the status of refugees and stateless persons set out the regulations regarding the appeal procedure to be used to challenge decisions rejecting asylum applications.

38. With regard to discrimination, Senegal had a long tradition of hospitality, known as *teranga*, which was reflected in its legislation. Pursuant to article 5 of the Constitution, any act of racial, ethnic or religious discrimination was punishable by law. Article 7 (4) of the Constitution stipulated that all persons were equal before the law; consequently, no distinction was made on the basis of nationality. Article 25 protected workers' rights, irrespective of their origin, sex, political affiliation or beliefs. A range of discrimination-related offences, including hate speech, violence and torture, were punishable under the Criminal Code.

39. **A representative of Senegal** said that a number of conditions were in place for the registration of trade unions, including the submission of the names of the persons assuming administrative or managerial roles in the union, along with proof that those persons had permission to live in Senegal and were not subject to restrictions on their right to vote. When unions were inspected, the resulting report was shared with the Ministry of Labour, the Ministry of the Interior and the Office of the Attorney General, the latter being responsible for verifying that the union's administrative and managerial staff met the relevant requirements. Within 15 days of receipt of the report, the Office of the Attorney General had to inform the relevant ministers and the union leadership of its findings, which could be challenged in the courts.

40. **A representative of Senegal** said that the best interests of the child were protected under articles 566 and 567 of the Code of Criminal Procedure, which regulated the handling of criminal cases involving minors. Article 2 of the children's code stated that the best interests of the child must be the prime consideration in all decisions concerning children taken by families, communities, public and private institutions, courts and administrative and legislative bodies. With regard to harmful cultural practices, female genital mutilation was criminalized under Act No. 9905 of 29 January 1999 and article 46 of the children's code. The code also contained provisions designed to protect girls from, *inter alia*, abuse and ill-treatment, sexual harassment, sexual and economic exploitation and the worst forms of labour.

41. In 2023, the Directorate of Judicial and Social Protection had handled 59 cases of forced marriage and 34 cases of early pregnancy. When a case of forced marriage was identified, the services for the non-institutional supervision of minors immediately alerted the Office of the Attorney General, which had the power to request the courts to annul the marriage. Pursuant to a circular issued on 11 October 2007 by the Ministry of Education, pregnant students were suspended from school for safety reasons, and their return to education was subject to medical authorization. In the prosecution of rape cases, aggravating circumstances were applied if the victim was a minor. The reintegration of minors requiring protection was the responsibility of the Directorate of Judicial and Social Protection, which

in 2023 had dealt with 15,520 minors, including 11,887 who were at risk, 2,797 who were in conflict with the law, 725 who had been the victims of crime and 37 who had witnessed a crime.

42. Under the universal school enrolment policy, no distinction was made between children on the basis of migration status, and the Government ensured that the necessary conditions were in place to uphold children's constitutional right to education. In addition to State-run public schools, religious and community schools were also recognized as educational establishments. Private schools were permitted to operate subject to authorization. All public and private national schools were obliged to ensure that their members were literate in one of the national languages. Pursuant to Act No. 91-22 of 30 January 1991 on education, as modified by Act No. 2004-37 of 15 December 2004, the Government must provide free compulsory schooling for children of both sexes aged between 6 and 16 years. A programme designed to improve quality, equity and transparency in the field of education had been put in place for the period 2013–2025. All the rights set out in the draft children's code were intended to apply to all children without distinction on the basis of, *inter alia*, race, skin colour or national, ethnic or social origin.

43. **A representative of Senegal** said that, during the third cycle of the universal periodic review, Senegal had encouraged at least 32 countries to ratify the Convention. However, ratification could be achieved only through the political will of the States concerned. Diplomatic and consular officials provided administrative and financial support in repatriating the remains of deceased Senegalese nationals. The Senegalese diaspora also regularly provided support, solidarity and funding to assist with such repatriations, which could be very costly. The Ministry of African Integration and Foreign Affairs was responsible for making regular updates to the online information platform for Senegalese nationals abroad. A database of bilateral agreements had been compiled; while it was not currently accessible to the public, the information contained therein was available to administrative entities on request.

44. **Mr. Charef** said that he wished to thank the delegation for the fruitful dialogue, the outcome of which would serve to improve the lives of migrant workers. The Committee was ready to provide the State party with any support it required in its implementation of the Convention.

45. **A representative of Senegal** said that the Committee's suggestions would be duly considered by the relevant authorities.

The meeting rose at 1.05 p.m.