



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

List of issues prior to submission of the fourth periodic report of Senegal*

Section I

A. General information

1. Please provide information on new provisions or amendments to the national legal framework relating to the Convention in general and, more specifically, with regard to:

(a) The measures taken by the State party to fully incorporate the Convention into domestic law and to ensure that its national laws and policies are in line with the provisions of the Convention (para. 9).¹

(b) The consolidation of the progress made in protecting the rights of nationals of the State party working abroad.

(c) The actions undertaken within the framework of existing and recently concluded bilateral and multilateral agreements to protect the rights of the State party's nationals working abroad, specifying the cooperation arrangements in place with States that are not yet parties to the Convention.

(d) The way in which the gains and guarantees obtained make it possible to strengthen the protection of Senegalese migrant workers abroad, particularly with regard to social security, detention, repatriation or expulsion procedures and family reunification.

2. Please provide information on the ongoing negotiations for the adoption of a new partnership agreement between the Organization of African, Caribbean and Pacific States and the European Union (Post-Cotonou Agreement). Give details of the challenges and opportunities for good governance in relation to cooperation on return and readmission of migrants, as well as the sustainable reintegration of all returned migrants in the territory of the State party. In this regard:

(a) Please address, if possible, the perspectives presented in the Post-Cotonou Agreement for the management of migration within the African, Caribbean and Pacific States zone, especially since this aspect was not sufficiently taken into account in article 13 of the *Partnership Agreement* between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States of the other part (Cotonou Agreement).

* Adopted by the Committee at its thirty-fifth session (19–30 September 2022).

¹ Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee (CMW/C/SEN/CO/2-3).



(b) Please provide details of measures to improve cooperation mechanisms between police, gendarmerie and internal security services and to promote freedom of movement and establishment as well as exchanges of skills and experience.

3. Please provide information and supporting data on the extent of the State party's participation in the Support to Free Movement of Persons and Migration in West Africa (FMM West Africa) project launched by the Economic Community of West African States (ECOWAS) to assist member States in the collection and management of migration data. In particular:

(a) Please specify the initiatives undertaken to implement the Guidelines for the Harmonization of Migration Data Management in the ECOWAS Region.

(b) Please provide information on all steps taken to collect data from diplomatic and consular missions, which should include all migrants, both those already registered and those in an irregular situation.

4. Please report on any developments relating to the applicability of the agreement on the joint management of migratory flows between France and Senegal, signed in September 2006, and provide information on the implementation of article 42 of the agreement. Please provide similar information for all existing bilateral and multilateral agreements, with a documented record of measures taken.

5. The Committee welcomes the signing of the bilateral social security convention of 22 November 2020 between Spain and the State party. In this regard, please indicate all the mechanisms that contribute to the effectiveness of this convention in ensuring that workers who have resided and worked in both countries fully enjoy their social security rights. Please also provide supporting data on the impact of this convention on the management of the coronavirus disease (COVID-19) pandemic.

6. Please provide information on restrictions placed on the full exercise of the rights of migrant workers and members of their families in response to the COVID-19 pandemic, including measures taken at borders to restrict their entry or exit from their countries of origin, transit or destination and the measures taken pursuant to the state of emergency. Please also provide information on measures taken in relation to the voluntary return of such persons to their countries of origin in the context of the pandemic. Please describe the measures taken to ensure that the pandemic does not affect the processing of asylum applications or migration procedures, including in relation to the suspension of procedures. Please outline initiatives taken for migrant workers and members of their families to: (a) ensure that they are covered by national pandemic prevention and management plans and, in particular, that they have access to health services without discrimination, regardless of their nationality and migration status, and provide supporting data and concrete examples; and (b) ensure that families of migrant workers who have died of the disease are informed of their deaths and receive their remains. Please provide information on the application of the joint guidance note of the Committee and the Special Rapporteur on the human rights of migrants on the impacts of the COVID-19 pandemic on the human rights of migrants.²

7. Please indicate the steps taken to strengthen the capacity of the Senegalese Human Rights Committee and bring it into line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). In particular:

(a) Please indicate whether this institution has taken any measures, alone or in collaboration with other State agencies and partners, to inform migrant workers of their rights and obligations.

(b) Please provide information on actions to promote the establishment of complaint mechanisms and legal support for migrants facing difficulties caused by their status as a migrant (discrimination, ill-treatment and exploitation in the workplace, arrests,

² Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Special Rapporteur on the human rights of migrants, "Joint guidance note on the impacts of the COVID-19 pandemic on the human rights of migrants," 26 May 2020.

pretrial detention, immigration detention, imprisonment, deportation and repatriation), as well as on training programmes on the human rights of migrant workers and members of their families, including capacity-building programmes for State agents that take into account gender, age and diversity, indicating the human, technical and financial resources allocated to the institution for this purpose.

(c) Please specify the initiatives taken by the State party to strengthen the financial and human resources of the Senegalese Human Rights Committee.

B. Information relating to the articles of the Convention

1. General principles

8. Please provide information on provisions of the Convention that have been directly applied by government officials, as well as on current case law, i.e. court decisions in which the Convention has been directly invoked (para. 9).

9. Please provide information on:

(a) The ordinary and administrative courts competent to examine and adjudicate complaints from migrant workers in a regular or irregular situation and members of their families.

(b) The number and type of complaints examined by such entities in the past five years and their outcome, with data disaggregated by sex, age, nationality, field of occupation and migration status.

(c) The provision of legal aid to migrants and, where appropriate, any measures taken to inform migrant workers and members of their families of the remedies available to them to assert their rights under the Convention.

(d) Any reparations, including compensation, provided to the victims of violations of their rights under the Convention (para. 25).

2. Part II of the Convention

Article 7

10. Please provide information, including data and concrete examples, on the extent to which the recommendations contained in the Committee's previous concluding observations have been implemented (para. 23) and on the initiatives developed over the past five years specifically for the implementation of article 7 of the Convention, in order to ensure that all migrant workers and members of their families in the territory of the State party or subject to its jurisdiction, both documented and undocumented, enjoy the rights recognized by the Convention without discrimination (para. 22).

11. Please provide information on the actions carried out over the last five years to strengthen the protection of migrant workers' human rights through the effective application of the principle of non-discrimination and the promotion of the principle of equal treatment of all workers, a principle that is protected by article 25 of the Constitution, article 1 and L105 of the Labour Code, and the Social Security Code (Act No. 73-37 of 31 July 1973).

12. Please provide information on the adoption of the bill amending the Labour Code and establishing a national observatory responsible for promoting and coordinating policies and programmes to combat discrimination at work and on the preparation of a preliminary draft implementing decree laying down the rules for the organization and functioning of this body.

13. Please indicate the actions carried out to facilitate naturalization procedures for children born on the territory of the State party to foreign parents within a reasonable time frame and provide information on all developments relating to the promotion of the effectiveness of the rights of migrant workers' children born in Senegal to civil registration in the administrative district where the children were born and to access to public education.

14. The Committee welcomes the successful completion of the efforts begun in 2016 to finalize the ratification process for the International Labour Organization (ILO) Maternity Protection Convention, 2000 (No. 183), thereby strengthening the measures to combat discrimination in the workplace.

Right to an effective remedy

15. Please provide data for the last five years on complaints brought by migrant workers and members of their families, including those in an irregular situation, that have been dealt with by the competent courts and have resulted in compensation, where appropriate. Please also describe the mechanisms for informing migrant workers, including those in an irregular situation, about the legal remedies available to them. Please specify the support measures for migrant workers to facilitate their access to justice (para. 25).

3. Part III of the Convention

Articles 8–35

16. Please provide information on the Government's policies over the past five years that have improved the rights of migrants in an irregular situation through legal initiatives to decriminalize the irregular stay of migrants and members of their families (para. 27), in accordance with the Committee's general comment No. 2 (2013) on the rights of migrant workers in an irregular situation and members of their families.

17. Please provide disaggregated data on migrant workers placed in detention for violating migration laws, including modes of arrest, location, type of proceedings and reasons for detention, average length of detention and conditions of detention. In this regard:

(a) Please clarify what means of information are used to inform migrant workers in detention about their rights and what methods are implemented, with which medium and in what language.

(b) Please provide information on cooperation with consular authorities accredited in the State party to facilitate contact with their nationals in detention and about the procedures for informing the consular authorities of the grounds for the arrest of their nationals and on their conditions of detention.

(c) Please describe the due process safeguards, including access to a lawyer and an interpreter, available to migrant workers and members of their families when they are investigated, arrested, detained or subject to expulsion for offences established under immigration law.

(d) Please describe the measures taken to ensure that the obligation contained in article 16 (7) of the Convention on systematic contact with consular or diplomatic authorities of the State of origin of detained migrant workers or members of their families is given effect in law and in practice.

18. Please provide information about the efforts undertaken to observe the principle of separation of the sexes in administrative detention facilities, to protect the rights of female migrant workers in general and pregnant and breastfeeding women in particular. Please indicate whether there is a mechanism to facilitate rapid access to emergency care for such pregnant and breastfeeding migrant workers.

19. Please indicate whether or not family detention is practised and what measures are envisaged to comply with the Convention, in accordance with joint general comment No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 23 of the Committee on the Rights of the Child (2017) on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, and with the Convention on the Rights of the Child. In this regard:

(a) Please indicate, in particular, what measures are taken to ensure the best interests of the child and children's right to family life through alternative measures to detention for migrant children who are alone or accompanied by their families.

(b) Please provide, if available, disaggregated and updated statistical data and qualitative information on the number of unaccompanied migrant children or migrant children separated from their parents in the State party and make such information available for unaccompanied children and children whose parents of Senegalese nationality are in detention in countries of destination.

(c) Please provide information, with supporting data, on the cases in which migrant children have been cared for by the Department of Supervised Education and Social Protection and on due process safeguards for unaccompanied children in administrative procedures related to their migration history, including the right to be heard and the right to an independent lawyer and an independent guardian.

20. Please indicate the actions carried out over the last five years to protect the rights of Senegalese prisoners in countries of destination and transit, providing detail on:

(a) How their rights to due process and decent conditions of detention are protected in these countries.

(b) Newly initiated legal support measures to ensure that they have useful and adequate information about legal procedures in these countries and legal, medical and psychological support.

(c) Cooperation with the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in the field of prevention, with supporting data.

Article 11

21. Please provide information on initiatives to collect statistical data on migrant children and adolescents who are unaccompanied, in transit or in an irregular situation and who are engaged in child labour.

(a) Please provide information on the outcome of the second stage of the programme to get children off the streets for the period from 2017 to 2019, in order to combat trafficking in persons, the exploitation of children and abuse.

(b) The progress made in the area of caring for children at risk, particularly for unaccompanied children, legal aid programmes, decentralized access to health facilities and the availability of reception centres.

(c) The State party's initiatives to increase financial and human resources for child protection services (departmental child protection committees), regional agencies for the non-institutional supervision of minors and the Department of Supervised Education and Social Protection.

22. The Committee welcomes the adoption by the Council of Ministers of the bill on the status of Qur'anic schools. In this regard, please provide information on:

(a) The support measures for the rapid implementation of this law, to accelerate the programme to get children off the streets.

(b) Law enforcement measures to punish human traffickers and efforts to identify and protect victims of trafficking, particularly in the case of street children, and the cases that are pending or have been decided to this end.

(c) The agreements envisaged at the subregional level concerning coordination and the fight against child labour (talibés, nannies, domestic workers and others).

Article 22

23. Please provide information on the number of migrants and members of their families who have been expelled, the reasons for their expulsion and the procedures used. Please also provide available data on the cases of placement in administrative detention in the territory of the State party and the periods of detention. Please indicate whether identical statistical data have been collected in countries of destination and transit for migrant workers of Senegalese nationality.

24. The Committee notes that the detention of persons on the sole grounds of their status as a migrant is very limited in the State party. Nevertheless, please provide information on the initiatives implemented to find a remedy for the detention of migrants in facilities intended for pretrial detention or deprivation of liberty and measures taken to ensure that migrants deprived of their liberty are detained for the shortest possible time. In this regard, please provide information on:

(a) Any initiative to create establishments specifically intended for the detention of migrant workers in conflict with the law owing to their status as a migrant and awaiting the enforcement of a removal order, in accordance with Act No. 70-10 of 25 January 1971.

(b) Initiatives to harmonize Act No. 70-10, which has not been amended since its promulgation in 1971, with international conventions.

(c) The provisions adopted, with concrete examples, to protect the right of persons subject to expulsion procedures to a reasoned decision on expulsion and to exercise their right to a suspensive appeal, on grounds of abuse of power, against administrative acts.

(d) The measures taken to remedy human rights violations of persons subject to expulsion procedures and to ensure that collective expulsion is prohibited.

(e) The steps taken to adopt a comprehensive strategy to combat forced and/or compulsory labour, trafficking in human beings and any other form of exploitation.

Article 27

25. Please indicate whether the new agreements and memorandums of understanding signed with the States parties and States not parties to the Convention in the area of social security make it possible to facilitate the transfer of the social contributions paid by Senegalese emigrants to the host countries upon their return. In this regard, please provide information on:

(a) The initiatives for systematic inclusion of social security provisions in bilateral and multilateral labour migration agreements to facilitate the transfer of social security contributions paid by Senegalese nationals abroad to countries of migration.

(b) Any plans to renegotiate the bilateral agreements signed by the State party with France, Spain, Italy, Mali, Mauritania, Morocco and Gabon, in order to strengthen the provisions on the right to equal treatment of migrant workers and members of their families with nationals in the area of social security (para. 32).

(c) Any measures to create a mechanism to extend the coverage of social security to the families of Senegalese nationals working abroad.

(d) The initiatives being developed to enable the 83 per cent of women working in the informal sector who have thus far had limited access to social security to benefit fully from it.

Article 30

26. Please provide information on the implementation of article 30 of the Convention and provide disaggregated data on access to public preschool educational institutions or schools. Please indicate the action undertaken to promote the applicability of article 13 of the International Covenant on Economic, Social and Cultural Rights, which guarantees access to education in general, including free and compulsory education to children of migrant workers in a regular or irregular situation.

4. Part IV of the Convention

Article 40

27. Please provide information on measures taken to guarantee to migrant workers and members of their families the right to form associations and trade unions, in particular on the application of the new Labour Code, which gives foreign nationals the opportunity to assume trade union management and leadership positions.

Article 44

28. In view of recent data showing an increase in the presence of children among the resident foreign population, indicating a situation of family reunification and long-term settlement, please provide disaggregated data on the right of migrant workers to family reunification. Please also provide information on the measures taken to facilitate the reunification of migrant workers with their spouses or persons with whom they have a relationship that, under the applicable law, produces effects equivalent to marriage, as well as with their minor dependent unmarried children, in accordance with article 44 of the Convention (para. 47).

Article 47

29. Please provide information on partnership agreements concluded in the last five years with financial institutions to facilitate the transfer of earnings and savings of Senegalese migrant workers abroad and migrant workers living in the State party. In this regard, please provide information on:

(a) Partnerships established with financial institutions to facilitate the sending of remittances to the State party by Senegalese migrant workers living abroad.

(b) Any measures that facilitate access to savings for migrant workers and members of their families and any efforts to enable recipients of remittances to acquire the necessary abilities to invest them in sustainable income-generating activities (para. 49).

5. Part VI of the Convention**Article 66**

30. Please provide information on the establishment in the State party of private agencies for the employment of migrant workers abroad. Please provide information about the legal framework for the functioning of such agencies and about the laws, rules and regulations relating to private recruitment (para. 53).

31. Please identify the provisions to prevent the unlawful recruitment of migrant workers in the State party, through the establishment of a transparent licensing system and monitoring and inspection procedures for recruitment.

32. Please indicate what legal and labour law protection and enforcement mechanisms have been put in place, including within the framework of the common approach to migration of the Economic Community of West African States (ECOWAS), to ensure that migrants, including women, enjoy the same rights as those reserved for nationals of the State party.

Article 67

33. Please provide information on the signing of bilateral and multilateral agreements with countries of destination and transit over the last five years, with the objective of promoting regular and safe migration. In this regard:

(a) Please indicate whether a survey of the memorandums of understanding and bilateral agreements with countries hosting Senegalese migrant workers has been carried out in order to include provisions in line with articles 22 and 67 of the Convention.

(b) Please provide information on activities that appear to be carried out jointly by the Spanish Civil Guard and the Senegalese defence and security forces to control migratory flows in southern Senegal.

(c) Please describe measures taken to consult civil society before negotiating bilateral agreements on the recruitment of Senegalese migrants for work abroad.

(d) Please indicate whether the State party has undertaken negotiations to conclude bilateral or multilateral agreements with more States of employment where large numbers of Senegalese migrants live, such as the Gambia, Guinea, Guinea-Bissau, Burkina Faso, Nigeria and some North African and European countries, in order to ensure that Senegalese migrants

and members of their families enjoy sound, equitable and humane conditions and that their social, economic and cultural needs are met.

34. Please provide information about the procedural safeguards protecting expelled Senegalese migrant workers from abuse, in particular on:

(a) The functioning and eligibility requirements for access to the special fund for support and assistance for the return and reintegration of migrants.

(b) The impact of the project to increase support for Senegalese nationals returning to the country and South-South cooperation in the area of migration launched by the General Directorate for Support to Senegalese Abroad (para. 55). Please also provide information, and supporting statistical data, on the functioning of the migrant reception and referral offices, how many such offices there are and their geographical distribution

35. Please provide information about cooperation initiatives at the Community level, especially with ECOWAS member countries, and data on the evaluation of cooperation programmes for the management of voluntary returns of migrant workers and members of their families to the national territory. Please also indicate the initiatives developed by the State party within the framework of the Réseau africain pour la gestion des migrations (African Network for Migration Management). Please specify what has been the State party's contribution to the Support to Free Movement of Persons and Migration in West Africa (FMM West Africa) project so far and indicate how the State party participates, within this framework, in the harmonization of the process of collecting and managing migration data in the ECOWAS region.

Article 68

36. Please provide information on capacity-building programmes in the field of human trafficking and smuggling for police officers and other law enforcement officials, border guards, judges, prosecutors, labour inspectors, teachers, health-care providers and the State party's embassy and consular personnel. Please also provide information on the establishment of data-collection systems disaggregated by sex, age and origin to prevent trafficking in persons (para. 57).

37. Please provide information about the current anti-trafficking bills pending adoption. Please also provide information on cross-border security management agreements and specific agreements with airport and border police agencies of other States, in particular:

(a) The progress made in the protection and care of victims of trafficking, especially minors and women, with supporting disaggregated data.

(b) The performance of the National Unit for the Fight against Trafficking in Persons in the last five years.

(c) The actions undertaken in the fight against migrant trafficking by the Interministerial Committee for the Fight against Illegal Immigration, which coordinates the Government's actions on these issues.

(d) The measures and actions taken to harmonize legislation with the Convention.

Article 69

38. Please provide information on measures taken to support migrant workers and members of their family in an irregular situation in the State party in order to regularize their situation in accordance with the provisions of article 69 of the Convention. In this regard:

(a) Please indicate the results obtained through measures taken to inform and assist migrants through the decentralization of migration policies and the establishment of reception, referral and follow-up support offices (Bureaux d'appui, d'orientation et de suivi (BAOS)) in the country's 14 regions.

(b) Please provide concrete examples and make available the collected data.

39. Please indicate the efforts made to strengthen cooperation with the countries of transit and destination of Senegalese migrant workers with a view to increasing the number of regular migration channels, in particular:

(a) The measures taken, with supporting data, to assist Senegalese nationals abroad under bilateral and multilateral agreements to set in motion procedures to regularize their situation.

(b) On the basis of the data collected, the actions taken to carry out investigations into migrant smuggling and identify and repatriate to the State party the bodies of Senegalese nationals who died during their attempt to immigrate.

40. The Committee welcomes the adoption of bill No. 21/2021 on the status of refugees and stateless persons, which repeals Act No. 68-27 of 24 July 1968, and invites the State party to submit information on the publication of the implementing decrees. In this regard, please provide information on:

(a) The procedures for the determination of refugee status and the guarantees ensuring that the persons concerned can appeal against expulsion decisions before a competent court and bring legal action with automatic suspensive effect.³

(b) The submission of applications for refugee status, and whether it is feasible for such applications to be registered first at a border post and then forwarded to the Ministry of the Interior and the National Asylum Eligibility Commission.

Section II

41. The Committee invites the State party to provide information (no more than three pages) regarding the protection of migrant workers and members of their families with respect to:

(a) The ratification of the optional protocols to international human rights treaties, in particular the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, and the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

(b) The ratification of:

(i) The International Labour Organization (ILO) Migration for Employment Convention (Revised), 1949 (No. 97)

(ii) The ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)

(iii) The ILO Domestic Workers Convention, 2011 (No. 189)

(iv) The Protocol of 2014 to the Forced Labour Convention, 1930

(v) The Protocol of 1995 to the Labour Inspection Convention, 1947

42. The Committee invites the State party to provide information on:

(a) Action undertaken since the submission of the State party's previous periodic report to launch or support initiatives for the collection of disaggregated data on registered migrants and the selection of indicators to measure migratory flows in the State party, as well as strategies adopted for the collection and use of administrative data and data from diplomatic and consular missions.

(b) Initiatives undertaken in recent years to disseminate the Convention among public officials and other persons working in fields linked to migration, as well as universities, civil society organizations and the media.

³ CAT/C/SEN/CO/4, para. 34 (b).

(c) Initiatives undertaken to disseminate the Committee's previous concluding observations among government agencies, the judiciary and members of civil society and to inform Senegalese migrants abroad and foreign migrant workers in transit or residing in the State party of their rights, and those of members of their families, under the Convention.

(d) Initiatives undertaken in recent years to encourage and stimulate scientific research in the field of migration, with disaggregated statistical data on research centres and institutions and research output.

Section III

Data, official estimates, statistics and other information, if available

43. Please provide, if available, updated disaggregated statistical data and qualitative information for the past five years on:

(a) The volume and nature of migratory movements to and from the State party.

(b) The number of migrant workers, disaggregated by age, sex, nationality and/or origin, in detention in the State party, and migrant workers who are nationals of the State party and are detained abroad in States of employment, and whether such detention is immigration-related, depending on the country of detention.

(c) The average length of detention and conditions of detention for migrant workers in detention and the number of expulsions and the procedures followed.

(d) The number of unaccompanied migrant children or migrant children separated from their parents in the State party.

(e) The number of Senegalese nationals still in Libya who wish to be repatriated.

(f) Reported cases of trafficking in and smuggling of migrants, investigations, prosecutions and sentences imposed on perpetrators (disaggregated by sex, age, nationality and purpose of trafficking).

(g) Legal assistance services provided to migrant workers and members of their families in the State party and to nationals working abroad or in transit through third States.

(h) Remittances sent by nationals of the State party working abroad.

(i) Measures taken to support the effective enjoyment by Senegalese migrants of their right to participate in the public affairs of their country of origin and to vote and to be elected to public office there.

(j) Any initiatives for bilateral migration management agreements with the Gulf States (Saudi Arabia, United Arab Emirates, Qatar), which have emerged as new destinations for Senegalese migrant workers.

44. Please provide any additional information on any important developments and measures to implement the Convention relating to the protection of the rights of migrant workers and members of their families that are considered a priority, including whether the State party envisages making the declaration under article 76 of the Convention recognizing the competence of the Committee to receive and consider State-to-State communications or the declaration under article 77 of the Convention recognizing the competence of the Committee to receive and consider individual communications (para. 10).