



**International Covenant on
Civil and Political Rights**

Distr.: General
14 February 2022
English
Original: French
English and French only

Human Rights Committee

**Information received from Senegal on follow-up to the
concluding observations on its fifth periodic report***

[Date received: 20 December 2021]

* The present document is being issued without formal editing.



Replies of the Government of Senegal on the follow-up given to the recommendations made in paragraphs 27 (deaths in custody), 33 (refugees and asylum seekers) and 41 (exploitation and abuse of children) of the Committee's concluding observations

Paragraph 27: The State party should take urgent measures to ensure that all deaths in custody are thoroughly and impartially investigated, that victims' beneficiaries receive reparations and that those responsible are prosecuted and punished in a manner commensurate with the gravity of their acts.

1. Procedure for dealing with deaths in custody

1. The prison administration is responsible for the implementation of judicial decisions regarding prison sentences and pretrial detention, as well as for the custody and upkeep of persons who, in specific cases determined by law, must be placed or kept in detention pursuant to legal decisions.

2. As part of this mission, it provides food and health care to prisoners. However, unfortunate incidents, including deaths, can occur in prisons.

3. Decree No. 2001-362 of 4 May 2001, concerning the implementation and adjustment of criminal penalties, sets out procedures for dealing with such situations, depending on whether the death is non-suspicious or violent.

4. If a prisoner dies, the prison director makes a note of the death in the margin of the prison register. He or she immediately notifies the competent registrar and files a report on the death.

5. The public prosecutor, his or her representative, or the president of the district court, as well as the judge responsible for the execution of sentences and the investigating judge, where applicable, are notified of the deaths of all prisoners.

6. In the event of a suicide or violent death, the director, in addition to informing the administrative authority, is required by law to immediately request the intervention of the police.

7. In all cases, it is the public prosecutor who, depending on the circumstances of the death, decides whether or not to order an autopsy to determine its causes.

8. If it is deemed necessary to order an autopsy, and the autopsy determines that the cause of death was natural, no follow-up action is taken.

9. On the other hand, when the autopsy reveals that the death had an external cause, such as physical abuse, the public prosecutor opens an investigation and the perpetrators are prosecuted and punished.

10. The death of Fallou Ka was one such case. He was ordered to be detained on 29 April 2019 and remanded in custody at Diourbel remand and short-stay prison. He was complaining of stomach pains when he was admitted to the prison. Complications arose and he was rushed to hospital. Unfortunately, he died three days later, on 2 May 2019.

11. In accordance with the regulations, the director of the facility submitted a report to the public prosecutor attached to the Diourbel regional court. The court ordered an autopsy under the powers conferred on it by law. The autopsy revealed that the above-mentioned inmate had been subjected to physical abuse which resulted in his death. The public prosecutor opened an investigation, which established that the perpetrators were the police officers who had arrested Fallou Ka. These officers, whose names were Daouda Ndiaye, Ndongo Kane and Baba Koundoul, were remanded in custody along with Louis Diouf of the Community Security Assistance Agency. On 7 January 2020, they were convicted of assault resulting in death, sentenced to 2 years' imprisonment and ordered to pay compensation in the amount of 2 million CFA francs (CFAF).

12. The deceased inmate's family members may also request an autopsy if they have any doubts about the circumstances of a death.

2. Measures taken to improve health care for prisoners

13. The public authorities have taken the following measures to improve the health care provided to prisoners:

- The daily maintenance allowance for prisoners' food and health care was increased to CFAF 1,152 in 2021; this has made it possible for meals of sufficient quality and quantity to be served to prisoners at the usual hours, in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). This increase is part of the Government's drive to raise the daily maintenance allowance for prisoners every year. The allowance had already increased from CFAF 461 in 2012 to CFAF 1,152 in 2021 (CFAF 1,000 for food and CFAF 152 for health care), an increase of CFAF 691 over nine years.
- Medical care and pharmaceutical products prescribed by attending physicians are provided free of charge to sick prisoners. Also free of charge are all examinations or specialist treatments required by prisoners, with the exception of prostheses and corrective lenses.
- Staffing levels in prison infirmaries have been raised and staff have been given training.
- Equipment has been provided to prison infirmaries in order to broaden the range of medical services available. For example, a scanner and a dental chair have been installed in Reubeuss prison.
- A prison facility has been established within Aristide Le Dantec Hospital to receive sick inmates requiring long-term hospitalization. The combined effect of all the efforts undertaken by the Government has been to improve the health-care system for prisoners and significantly reduce the number of deaths in prison from double to single figures.

Paragraph 33: the State party should:

(a) Review its legislation to bring it into line with the Covenant and the Convention relating to the Status of Refugees;

(b) Increase the financial and human resources of the National Commission on Eligibility for Refugee Status in order to make it more effective;

(c) Reduce delays in responding to applications for refugee status;

(d) Revise Act No. 61-10 on Senegalese nationality in order to avoid the risk of statelessness, in particular for all foundlings found in Senegalese territory, irrespective of their age, and children born in Senegal to foreign parents.

14. With regard to police custody, pretrial detention and access to lawyers, a bill on the status of refugees and stateless persons was adopted by the Council of Ministers on 9 September 2020. This bill, which is intended to repeal Act No. 68-027 of 24 July 1968 on the status of refugees, contains important innovations designed to bring the refugee system into line with the 1951 Convention. In this connection:

- The National Commission for Refugees and Stateless Persons has been established to provide asylum seekers, refugees and stateless persons with legal and administrative protection.
- Applicants for refugee status are protected in that they may not be prosecuted for entering the country without authorization provided that they present themselves to the authorities responsible for refugees within a reasonable time period.
- A family reunification policy for refugees has been adopted that enables family members to apply for refugee status.
- A prohibition has been placed on expelling or returning refugees to territories where their lives would be in danger.

- Under the Code of Criminal Procedure, child applicants for refugee status receive educational support and are placed under the protection of the National Commission for Refugees and Stateless Persons.

15. This bill, which will shortly be examined by the National Assembly, provides for an implementing decree on the procedure for determining eligibility for refugee status. The purpose of this decree is to establish a more efficient procedure for processing such applications.

16. The risk of children becoming stateless was taken into account in the development of the national action plan for the eradication of statelessness in Senegal by 2024, which was drawn up during a workshop held in Saly on 25 and 26 May 2021.

17. This action plan includes a proposal to amend Act No. 61-10 of 7 March 1961 on Senegalese nationality in order to allow foundlings found in Senegal to benefit from the presumption of Senegalese nationality if they would otherwise be stateless.

18. The action plan will be the subject of a pre-approval workshop to be held in late October 2021 and will subsequently be submitted to the Minister of Justice for final approval.

19. With regard to access to lawyers, the bill on legal aid, drawn up by the Ministry of Justice, has been submitted to the General Secretariat of the Government. The bill contains provisions guaranteeing all defendants access to a lawyer and provides for more transparent management of legal aid and the possible diversification of funding sources. Pending its adoption, the Government is continuing to increase the budget allocated to legal aid every year. This aid is expected to be increased to CFAF 8 million in 2022.

Paragraph 41: The State party should adopt urgent measures to put an end to ill-treatment, exploitation, trafficking and all other forms of violence and torture against children, and should in particular:

(a) Put an end to all forms of exploitation and abuse of children, including by teachers in the traditional Qur'anic schools (*daaras*)

20. The Ministry of Women, Family, Gender and Child Protection has set up a national toll-free number dedicated to children – 116 – which is in operation 24 hours per day. Any man, woman or child can use this number to report cases of missing children and cases of abuse, trafficking, neglect or family breakdown, or to refer identified victims to the emergency care services.

21. The 116 line also provides information on the responsibilities of, and services provided by, the Ginddi Centre (also known as the Reception, Information and Guidance Centre for Children in Difficult Situations), which manages the line. The Ginddi Centre is a State agency, attached to the Ministry of Women, Family, Gender and Child Protection, that has the following responsibilities:

- Helping to rescue children from abusive situations and reintegrate them into society
- Assisting girls who are victims of abuse or ill-treatment
- Providing social and medical assistance to children in vulnerable situations and promoting the social rehabilitation of children experiencing family conflicts
- Helping to promote alternative forms of education for girls who are not in school or who have dropped out
- Helping unemployed young people to gain access to the small-business sector
- Promoting the hotline operated by the national protection system

22. At the local level, mechanisms for identifying, referring and caring for vulnerable children are established within the departmental child protection committees, which have been set up in 45 out of the 46 departments. The committees, which are chaired by the prefect, provide local responses to the problems affecting children's well-being.

Child beggars

- The Ministry of Women, Family, Gender and Child Protection implemented an emergency project called “Zero Children on the Streets” to protect children against the coronavirus disease (COVID-19). Under the project, 6,605 children were taken off the streets between 2020 and 2021, with almost 85 per cent of them being returned to their families.
- The “Zero Children on the Streets” project led to the adoption of the programme for getting children off the streets and reintegrating them into society for 2021–2023. The programme, which is part of the Adjusted and Accelerated Priority Action Plan of the Emerging Senegal Plan, is focused on communication, getting children off the streets and supporting them, their families, their communities and the Qur’anic schools with a view to ensuring their socioeconomic reintegration.
- A communication campaign has been launched to inform communities of the dangers and consequences of the exploitation and abuse of *talibé* children and to encourage communities to sign up to the “Zero Children on the Streets” project.

23. In 2020, the Ministry took steps to boost the capacity of the child protection squad in order to promote its involvement in measures to get children off the streets and facilitate prosecution procedures.

- In 2021, the Ministry launched the National Food and Toiletries Support Programme, which has improved the living and learning conditions of 10,934 children (3,786 girls and 7,148 boys) in 215 Qur’anic schools in four beneficiary regions (Dakar, Fatick, Kaolack and Matam).
- The Ministry takes advantage of the involvement of local governments and communities in implementing State policy, drawing on the support provided by Dakar City Council with drafting documents related to the “Children’s Home” project, which is intended to accompany the “Zero Children in the Streets” and the “City with No Street Children” initiatives.

24. The Children’s Home project will cost an estimated CFAF 1.5 billion and will last 36 months. During the pilot stage, it will directly benefit 10,000 children living in the municipalities of the city of Dakar and another seven municipalities.

Protecting children online

- In 2020, the Ministry, in partnership with the Internet Watch Foundation, launched a portal for reporting and removing online images or videos of child sexual abuse. This portal, which is the first of its kind in Senegal, allows anyone to report, anonymously or otherwise, inappropriate content featuring child victims of sexual abuse on the Internet. It automatically allows investigations to be conducted and content to be removed in order to protect children’s identities and dignity.
- The Ministry has implemented a national action plan for protecting children online and has subscribed to an African programme for preventing and combating the online sexual exploitation of children.
- In order to raise awareness of this tool among children, who are its main beneficiaries, the Ministry launched a project called “Sellal Net” in collaboration with Save the Children. A total of 24 children and young persons, including 10 boys, received training on the dangers of the Internet and helped to develop key messages for the campaign to raise awareness of the portal. These children will act as focal points among their peers to raise awareness of the reporting portal. In parallel, a communications agency has been hired to develop the campaign on the basis of messages designed by these children and young persons.
- A total of 100 children and young persons participated in a survey on their knowledge and use of the platform in order to identify any difficulties that they had in using it. The resultant recommendations will make it possible to improve the portal’s home page.

- In partnership with Social Change Factory, an educational quiz has been developed to promote children’s rights through play. A mobile application entitled “Yaa Ma Gena Xam” (Wolof for “you know better than me”) has been created and released online to increase children’s and adolescents’ knowledge and awareness. This application, which is available on Google Play, helps facilitate access to various information and educational sources and discussion forums.

Protection against violence

- Progress has been made in the implementation of Act No. 99-05 of 29 January 1999, amending the Criminal Code and punishing all forms of female genital mutilation. In 2021, six people were prosecuted and sentenced by the courts in cases involving acts of female genital mutilation reported by members of the public in the Dakar region.
- Act No. 2020-05 of 10 January 2020, amending Act No. 65-60 of 21 July 1965 on the Criminal Code, has been adopted and promulgated. Act No. 2020-05 fully criminalizes rape and paedophilia, establishing penalties ranging from 10 to 20 years’ imprisonment. If there are aggravating circumstances, the perpetrators may be sentenced to life imprisonment. Efforts are being made to raise awareness of the Act, including through the “16 Days of Activism against Gender-Based Violence” campaign.
- In 2020, girls from the 14 regions of Senegal participated in the development of the “Girls’ Agenda”. The purpose of this agenda is to help girls to develop and realize their aspirations by identifying opportunities and obstacles through sustained advocacy and getting the general public to engage with urgent issues facing girls. In that connection, a request to raise the legal age of marriage has been submitted.
- A total of CFAF 800 million from the Ministry’s budget for 2021 has been earmarked for a project to build and equip a national centre for the holistic care of victims of gender-based violence (a so-called one-stop centre).
- Toll-free numbers have been set up in drop-in centres and legal clinics to facilitate reporting and the provision of guidance and care to victims of sexual abuse.

(b) In the framework of the National Child Protection Strategy, establish a national database on all cases of domestic violence against children and carry out a comprehensive assessment of the extent, causes and nature of such violence

25. In 2017, the Ministry of Women, Family, Gender and Child Protection designed Excel-based tools for collecting data on child protection that were approved by all the key stakeholders working in that area. These tools are being tested by 18 departmental child protection committees that report on the situation of children, including child victims of domestic violence and those who have been the subject of a referral.

26. The Ministry will take steps to map child protection information systems with a view to establishing a national data management platform that will cover all areas of protection, including protection against violence.

(c) Expedite the adoption of the Children’s Code while ensuring that it complies with the provisions of the Covenant

27. In 2018, acting pursuant to Order No. 015923 of 4 July 2018, the Ministry of Justice set up a working group to draft a children’s code that would be consistent with the Convention on the Rights of the Child. The revised document was forwarded to the General Secretariat of the Government in November 2018. After it had been processed, and in accordance with the directive issued by the President of the Republic to ensure the urgent adoption of the bill on the children’s code, as formulated in the Council of Ministers on 13 June 2019, the General Secretariat sent the document to all ministries for comments in September 2019. The consolidated document is currently being considered by the Ministry of Justice in the light of the latest comments received from the General Secretariat. It will be sent back to the technical

committee of the General Secretariat before being sent to the Council of Ministers and the National Assembly for approval.

28. At the same time, the Ministry of Women, Family, Gender and Child Protection is working with the Ministry of Justice and all stakeholders in the area of child protection to overcome the sociocultural attitudes that constitute the main obstacle to the adoption of the bill.

(d) Ensure the strict application of article 298 of the Criminal Code, which criminalizes intentional physical violence against and neglect of children, by providing the entire judicial chain with resources adapted to the scale of the phenomenon

29. Article 298 of the Criminal Code, which criminalizes the physical abuse and wilful neglect of children, is implemented effectively by all Senegalese courts.

30. For example, the Saint-Louis Court of Appeal recently sentenced a Qur'anic teacher by the name of Cheikh Tidiane Lo to 2 years' imprisonment for inflicting a fatal beating on a 15-year-old child. The same court sentenced a teacher by the name of Marne Farma Ndiaye to 2 years' imprisonment for similar offences.

(e) Accelerate the adoption of the bill on the modernization of Qur'anic schools while ensuring that the adopted law is compatible with the State party's obligations under the Covenant and provides for an inspection system with the necessary resources

31. The bill on the status of Qur'anic schools was adopted in the Council of Ministers on 6 June 2018. This bill will be supplemented by four implementing decrees concerning:

- The conditions governing the opening and oversight of Qur'anic schools
- The qualifications of teachers and head teachers and the conditions governing their recruitment
- The conditions governing the recognition and allocation of grants, allowances and assistance to Qur'anic schools
- The organization and functioning of the Advisory Council on Qur'anic Schools

32. The purpose of the bill is to contribute towards:

- Raising the school enrolment rate by opening the education system to the hundreds of thousands of children who are excluded from it
- Addressing the issue of the quality of education provided in this subsector by improving the school environment, the content of curricula and the quality of the teaching and management staff in Qur'anic schools
- Improving transparency and equity in respect of the funding and support provided to Qur'anic schools
- Responding to the demand for a single model of citizenship that does not distinguish between children educated in the mainstream education system and those trained in the Qur'anic schools
- Giving students in Qur'anic schools access to knowledge, especially scientific knowledge, covered by the curricula of mainstream schools

(f) Allow civil society organizations to associate themselves with criminal proceedings before the courts in all cases of child trafficking and abuse

33. Article 2 of Act no. 65-61 of 21 July 1965 on the Code of Criminal Procedure establishes a very broad conception of suing for damages in criminal proceedings, under which any person who has suffered harm owing to a criminal offence may claim compensation in the courts.

34. Wishing to further improve this mechanism so that it is better suited to combating trafficking in persons and equivalent practices, the national legislature took account of this in Act No. 2005-06 of 10 May 2005 on the punishment of such offences. The final paragraph

of article 17 of the Act provides that associations or public services providing support to victims of such abuse may represent the victims before the courts, at the victims' request or on their own initiative, which appears to address the concern of the Human Rights Committee.

35. The above-mentioned law on combating trafficking in persons and related practices and on victim protection is currently undergoing revision and should be significantly strengthened with respect to victim support.

36. This may entail establishing the right of civil society organizations working to combat trafficking in persons and child abuse to become parties to criminal proceedings related to such offences.
