



**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
Thirteenth session**

Summary record of the 142nd meeting

Held at the Palais Wilson, Geneva, on Wednesday, 24 November 2010, at 3 p.m.

Chairperson: Mr. El Jamri

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The meeting was called to order at 3.05 p.m.

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

Initial report of Senegal (CMW/C/SEN/1; CMW/C/SEN/Q/1)

1. *At the invitation of the Chairperson, the delegation of Senegal took places at the Committee table.*
2. **Ms. Ntap Ndiaye** (Senegal), introducing the initial report of Senegal (CMW/C/SEN/1), said that as a State party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families since 9 June 1999, Senegal spared no effort to respect its commitments to Senegalese migrant workers abroad and migrant workers in Senegal; indeed, the issue of migration received special attention at the highest level. Senegal had been honoured to receive the Special Rapporteur on the human rights of migrants in 2009. Senegal's commitment to protecting human rights was based on its spirit of openness. As a source, transit and destination country it was aware of the contribution that migrant workers made both to their countries of origin and to their host countries. In the current global context, xenophobia and intolerance were gaining ground. It was, therefore, essential to formally acknowledge the contribution that migrants made to host countries in order to promote respect for their dignity and rights. Senegal took every opportunity to encourage other States to ratify the Convention, an act that would demonstrate a real will to protect the rights of migrant workers regardless of their status. The twentieth anniversary of the Convention offered an opportunity to reflect on the problems associated with migrants, who represented some 3 per cent of the global population. Senegal would take that opportunity to strengthen its advocacy for the ratification and implementation of the Convention.
3. Major developments had taken place with regard to migration management in Senegal. At the institutional level, a number of ministerial departments were competent to deal with various aspects of migration management, as set out in paragraph 45 of the report. The Office of the President provided support, in particular with regard to the repatriation of Senegalese migrant workers, and civil society made an active contribution by raising public awareness of issues such as the dangers of clandestine migration.
4. Clandestine migration continued to pose a challenge but less so since the adoption in 2005 of the Trafficking in Persons Act and the establishment in 2010 of an inter-ministerial unit to coordinate action against trafficking. Border controls had been strengthened, taking into consideration the provisions of article 68 of the Convention. Moreover, the national media and returnees to Senegal contributed to discouraging clandestine migration while the Great Offensive for Agriculture, Food and Abundance (GOANA), a project launched by the President, provided more reasons to stay in Senegal.
5. An estimated 640,000 Senegalese nationals lived abroad, mainly in the North but also in Africa and Asia. In addition to organizing solidarity networks in host countries, they received all manner of assistance through Senegal's diplomatic and consular offices abroad and could exercise their right to vote.
6. Remittances from migrant workers were an important source of income for Senegal. According to World Bank estimates, Senegal's remittances from abroad would be worth some \$1.2 billion in 2011; in 2009, they had accounted for some 9 per cent of gross domestic product. As such amounts could make a considerable contribution to poverty reduction, the Government was working to strengthen women's management capacity and develop mutual savings funds and microfinance programmes. The mandate of the Ministry for Senegalese Abroad covered various areas, including social affairs and support for

investment and projects; in 2008 it had established an investment support fund for Senegalese abroad.

7. The national authorities attached special importance to migration, and the President himself was particularly interested in the living conditions of migrant workers in Senegal and of Senegalese migrant workers abroad. Migrant workers contributed to development by a circular process: host countries benefited from the expertise of non-national migrant workers, while the expertise that nationals brought back from host countries was of real value to their countries of origin.

8. Welfare issues also received close attention. Senegal was most willing to conclude social security agreements, although partner countries sometimes encountered delays. With regard to pension portability, Senegal systematically paid old-age pensions to foreign nationals on a pro rata basis that reflected contributions during their stay in Senegal, and a dedicated office had been established for the payment of pensions abroad.

9. **Ms. Poussi Konsimbo** (Country Rapporteur) said that Senegal was a crossroads for migrant workers, so that both Senegalese migrant workers abroad and migrant workers in, or in transit through, Senegal needed protection.

10. The State party's report was concise and focused and gave clear basic information on migration flows. However, it lacked statistics and the statistical estimates it did provide were at times approximate or outdated, which made objective assessment of the situation difficult. Senegal had ratified most International Labour Organization (ILO) conventions in respect of migrant workers and had extensive domestic legislation on the subject. Indeed, much of Senegal's legislation on migrant workers was of long standing, although the Trafficking in Persons Act adopted in 2005 was an important recent addition. She wished to know what specific measures Senegal had taken to follow up on its commitment to promoting migrant workers' rights since its ratification of the Convention.

11. Senegal was an agricultural country and the development of that sector could lead to migration problems. She wished to know more about the guiding principles behind the Return to Agriculture plan that encouraged young people, migrants and victims of clandestine migration to develop agricultural projects, and asked how its implementation, if it was operational, had contributed to the management of migration.

12. With regard to the exercise of pension rights (report, para. 57), she asked whether migrant workers were indeed obliged to remain in their host countries in order to receive their pension, and, if so, how many were affected by that situation and whether the issue could be resolved through bilateral social security agreements. Had Senegal taken any steps to resolve the issue? She also wished to know what measures were in place to ensure that migrant workers in Senegal obtained their pensions without difficulty.

13. The effectiveness of the Internet-based information strategy to disseminate the Convention (para. 58) depended on migrant workers' access to that medium. She would therefore be interested to know how many Senegalese and migrant workers in transit had Internet access.

14. She requested further information concerning bilateral agreements on the management of migration flows, in addition to those with Spain and France. She also wished to know whether migrants' organizations participated in the negotiation of such agreements, whether those agreements had enhanced migration management in Senegal, whether the follow-up mechanisms that they provided for were effective and whether they had improved the quality of information on migration.

15. With regard to the expulsion or refoulement of migrant workers to Senegal, she requested statistical information that would indicate the prevalence of that practice. Furthermore, she wished to know what measures had been taken to protect the rights of

such returnees and whether specific measures had been taken to ensure respect for the rights of foreign workers in Senegal. Was it true that nationals and non-nationals suspected of being or intending to become migrants were sometimes subjected to arbitrary detention, in violation of article 16, paragraph 4, of the Convention?

16. She asked whether any traffickers had been convicted under the Trafficking in Persons Act, including those who had committed acts of sexual violence against women migrant workers. Moreover, she wished to know whether the 2008 comprehensive national action plan to combat trafficking, in particular of women and children, had been implemented, and asked for further information on the activities undertaken in that context and on the impact of the plan.

17. Senegal was particularly affected by trafficking in children, millions of whom were trafficked as beggars, known as *talibé*. In Senegal, some 80 per cent of child beggars came from neighbouring or nearby countries; they were forced to beg and were exploited, starved, beaten and maltreated by marabouts. The Committee would appreciate further information on that phenomenon, in addition to information on measures to combat it. In that connection, it would also be helpful to know since when 20 April had been designated National *Talibé* Day in Senegal and whether the activities undertaken on that day had had an impact on the maltreatment of children. If the Trafficking in Persons Act applied to marabouts, had any of them been convicted for the maltreatment and exploitation of children?

18. **Mr. El-Borai** said that he would like further information on the functions of the inter-ministerial unit set up in 2010 to address the issue of trafficking in persons. The State party's report described several examples of legislation and practice that conflicted with the Convention. The restriction explained in paragraph 28 of the report, that residence or establishment permits could be extended to the applicant's children only if they accompanied him or her at the time of entry into Senegal, conflicted with article 1, paragraph 2, and article 4 of the Convention, and, in fact, contradicted paragraph 31 of the report. He asked the State party to define the term "repatriation deposit" in paragraph 29 of the report, which he suspected conflicted with article 22, paragraph 8, of the Convention. The condition that foreign nationals must have been resident in Senegal for at least five years before they could assume administrative or managerial functions in a trade union (report, para. 33) conflicted with article 40 of the Convention. He requested further details on the content of the legal provisions with respect to freedom of association and expression listed in paragraph 41 of the report. He asked how the Government ensured respect for the social security rights of migrant workers in the informal sector, and requested further information on Act No. 75-50 of 3 April 1975 on social insurance institutions. Noting that international agreements took precedence over domestic legislation, he asked whether the provisions of the Convention were being applied by the courts and officials responsible for migration issues in Senegal.

19. **Ms. Cubias Medina**, noting that the Labour Code prohibited all forms of discrimination against workers, asked whether there was any difference in the treatment of migrant workers in the formal and informal sectors and, if not, how the State party prevented such discrimination.

20. **Mr. Carrión-Mena**, noting the lack of statistics and specific data in the report, said that the State party should make every effort to collect at least approximate figures that would permit a better assessment of the situation of migrant workers. He asked for confirmation of the comment by the head of delegation that another census was soon to be conducted, noting from the report that the last census was still recent. He requested further details on measures taken by the Government to raise awareness of the Convention and on the results of such efforts. He asked how the State party sought to provide information to Senegalese nationals on potential destination countries, given the negative and even tragic

consequences that could result from the lack of such knowledge. He asked whether Government policies existed to encourage the direction of remittances from Senegalese migrant workers abroad towards productive economic activities. He requested further details on the bilateral agreements that the State party had concluded with Spain and France, including their scope and results, and asked whether it had concluded similar agreements with its neighbouring countries. He would like to know whether there were mechanisms in place to enable Senegalese migrant workers abroad to vote in their national elections, and, if not, whether there were any plans to establish such mechanisms. He asked for clarification on the treatment of legitimate children and natural children: did the distinction made between them in paragraph 39 of the report indicate a difference in treatment in the eyes of the law?

21. **Mr. Alba** said that he would be interested in hearing details of the State party's unusual and innovative system for paying pensions to foreign nationals in Senegal, including the number of people involved, the amounts paid and how the system functioned. Noting that Senegal was an important transit country, he asked for further details on its experience of ensuring the protection of the rights of migrant workers in terms of immigration control and repatriation of Senegalese and foreign nationals. Further noting that migrants must apply to the Aliens Police for a foreigner's identity card after being granted a work permit, he asked whether the identity card was awarded automatically or if any conditions must be met, and whether the involvement of the Aliens Police implied that some kind of investigation was conducted. The restriction in the State party whereby administrative and managerial functions in trade unions could be performed by foreign nationals only if their country of origin accorded the same right to Senegalese nationals (para. 33) meant that there was a risk of discrimination against nationals whose countries of origin did not do so. He would like to know if all categories of migrant workers, including those in the informal sector, were eligible to perform administrative and managerial functions in trade unions.

22. **Mr. Sevim** asked if there were any restrictions — in terms of age or factors such as gender or educational background — on the eligibility of young Senegalese workers for the scheme that allowed them to work in Spain in a regular situation (para. 45). He requested further details on bilateral agreements that the State party had concluded with other countries on social security, and asked whether they applied only to retirement pensions or also to invalidity and other pensions and to health care. He said that he had difficulty understanding paragraph 57, since the State party could have no influence over the payment of social security benefits by host countries with which it had not concluded bilateral agreements. He noted that the difficulties explained in paragraph 57 of the report concerning the transfer of social security benefits could be addressed if the State party ratified the ILO Convention concerning Equality of Treatment of Nationals and Non-Nationals in Social Security (No. 118).

23. **Ms. Miller-Stennett** requested further details on the specific types of assistance that Senegalese citizens abroad received from the Ministry of Foreign Affairs (para. 20) and on how the State party ensured respect for article 25 of the Constitution of Senegal, which recognized the right of everyone to work and to seek work without discrimination, in the case of Senegalese nationals abroad. She also asked for more information on the requirement that foreigners wishing to take up residence in Senegal for the purposes of remunerated work must produce an employment contract bearing the stamp of approval provided for by the Labour Code (para. 27). She echoed Mr. El-Borai's concern that residence permits could be extended to the applicant's children only if they accompanied him or her at the time of entry into Senegal, which could have a negative impact on families that failed to meet that requirement: she asked whether any measures had been taken to remedy that situation. She requested further details on the exemption of Senegalese enterprises from payment of a repatriation deposit and from taxes (para. 29) and on the

bilateral agreements listed in paragraph 36. Lastly, she asked whether there were any plans to amend the Senegalese Electoral Code to give foreign nationals the right to vote.

24. **The Chairperson** asked how the actions of the various ministries and other bodies involved in migration policy were coordinated to ensure coherence. He would like to know how the State party encouraged Senegalese expatriates to use remittances to further the country's development and alleviate poverty. He asked what measures the State party was taking to discourage the emigration of skilled and qualified workers from Senegal, given that recent studies had found that 50 per cent of the skilled workforce of sub-Saharan Africa was living and working abroad. Finally, he asked whether the State party had collected any statistics on unaccompanied minors and requested details of Government efforts at the national and regional levels to address that issue.

The meeting was suspended at 4.25 p.m. and resumed at 5 p.m.

25. **Ms. Ntap Ndiaye** (Senegal) said that a number of different Government departments were responsible for implementing the Convention in Senegal, paying particular attention to the living conditions of migrant workers as Senegal strove to live up to its reputation as a hospitable country. The focal point for implementation of the Convention was located in the Ministry of Foreign Affairs, whose policies on migrant workers reflected a strong influence of the International Organization for Migration (IOM) and the International Labour Organization. The availability of reliable statistical data was certainly important and would contribute to obtaining a clear overview and sound understanding of migration in Senegal. Inadequate statistics had been identified as an obstacle to dealing with migration-related problems and the Senegalese authorities were currently considering the possibility of establishing a national centre for monitoring migration.

26. Following ratification of the Convention, the Government had continued to work on other legislative provisions to ensure the social welfare of migrant workers and their families. In recent months, it had organized a workshop for all stakeholders to examine domestic legislation in the light of the ILO conventions ratified by Senegal and it was currently reviewing the legislation to ensure that it was consistent with those conventions. It planned to take a similar approach in respect of the Migrant Workers Convention, in order to pinpoint any inconsistencies and bring its domestic legislation into line with the Convention.

27. **Mr. Gueye** (Senegal) said that Senegal was one of first African countries to accept that nationals abroad should be able to participate in elections. For logistical reasons, a minimum of 300 Senegalese nationals had to be registered with a given consulate before a polling station could be opened in another country. Senegalese in the diaspora had participated in elections in that manner since 1996 and a preliminary campaign was currently under way in preparation for the 2012 elections.

28. **Mr. Thiam** (Senegal) said that although the President attached great importance to the living and working conditions of Senegalese nationals abroad, the number of agreements signed with other countries on the protection of migrants was modest. The agreement signed with France in 1994 covered most aspects of social security and was both broad and generous in scope. The agreements signed with Burkina Faso, Côte d'Ivoire, Mali, Mauritania and Togo were considerably more limited in scope. Others, such as those with Cameroon and Gabon, had been concluded quite some time ago but remained to be ratified by those countries. Senegal was also awaiting a response from Spain in that connection.

29. A distinction was drawn between legitimate and natural children in order to avoid discrimination and protect children's right to a nationality; a child with a Senegalese father

or mother could choose to have Senegalese nationality whether or not his or her parents were married.

30. In response to the questions about the rights of migrant workers in the informal sector, he said that while social security legislation such as Act No. 73-37 of 31 July 1973 (Social Security Code) and Decree No. 75-455 of 24 April 1975 was in place for the benefit of all workers, migrant workers in the informal sector operated, by definition, outside the law. The problem was therefore centred not so much on discrimination as on the incompatibility between the way in which the formal social security system worked and the nature of the informal sector. The system that was in place did not exclude any workers, but workers themselves had to adapt to the system. It was difficult, for example, for migrant workers in the informal sector to fulfil the requirements to obtain pensions through the formal social security system, since that system was based on salaried employment. Another factor was lack of awareness among workers of the benefits of pension schemes. During research and awareness-raising campaigns conducted in cooperation with ILO, the Government had found that while workers were fully prepared to take out health insurance because they understood the benefits from their own and their family's experience, they were reluctant to register for pension schemes as they felt that they might not live to reap the benefits. The Government was striving to ensure that all migrant workers were covered by the formal social security system.

31. **Ms. Ntap Ndiaye** (Senegal) said that the Government was committed to bringing workers out of the informal sector, which currently accounted for approximately 90 per cent of the Senegalese workforce, and was pursuing efforts to reduce poverty and to extend social security coverage to all workers. The Government was currently monitoring the results of a conference on the formalization of the informal sector that it had organized in 2009 as a follow-up to its work with ILO with the aim of encouraging workers in the informal sector to register with the Social Security Fund and with pension schemes. Act No. 75-50 of 3 April 1975 on social insurance institutions had been amended to introduce the possibility of pension schemes based not just on redistribution, but also on capitalization, enabling non-salaried workers to contribute.

32. **Mr. Thiaw** (Senegal) said that Senegal enjoyed good relations with all countries, particularly with its neighbouring countries, and was committed to ensuring the freedom of movement of persons and goods across its borders. In response to the question about action taken by the State party to incorporate the provisions of the Convention into domestic legislation, he said that the quality of Senegal's legislation at the time of ratification had made the process relatively easy. Efforts to address the difficult topic of clandestine migration had included the adoption of the Trafficking in Persons Act (No. 2005-06) of 10 May 2005, which had since been applied in many cases and had been effective in reducing trafficking.

33. **Mr. Brillantes** asked whether NGOs had played any role in the preparation of the report.

34. **Ms. Ntap Ndiaye** (Senegal), noting the long history of democracy in Senegal, said that the Government and NGOs had each prepared their own reports for the Committee, and that the shadow report was to be commended. She would be happy to reply to any questions Committee members might have on specific points raised in the shadow report.

The meeting rose at 5.35 p.m.