



**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 (partial)* of the 143rd meeting

Held at the Palais Wilson, Geneva, on Thursday, 25 November 2010, at 10 a.m.

Chairperson: Mr. El Jamri

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 10.10 a.m.

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

Initial report of Senegal (continued) (CMW/C/SEN/Q/1 and CMW/C/SEN/Q/1/Add.1)

1. **The Chairperson** invited the members of the delegation of Senegal to continue their replies to questions raised at the previous meeting.
2. **Ms. Ntap Ndiaye** (Senegal) said that the delegation had grouped the remaining questions by topic.
3. **Mr. Gueye** (Senegal) said that the fight against child trafficking fell within the scope of Act No. 2005-06 of 10 May 2005 on measures to combat trafficking in persons and related practices and to protect victims, which carried prison sentences of between 5 and 30 years and fines of up to 20 million CFA francs. With regard to unaccompanied minors, the border authorities had an obligation to inspect the travel documents of all minors entering Senegal as well as the official authorizations of accompanying adults.
4. Senegal had concluded numerous bilateral agreements on migration, through which the Government had always safeguarded the interests of its citizens. The majority of agreements concluded with Spain, in particular the framework agreement on cooperation in migration matters, were aimed at managing migratory flows and encouraging legal migration. It was important to note that agreements had been signed by the two countries to dismantle clandestine networks. Thanks to the effectiveness of the measures adopted, the number of clandestine boats leaving Senegal had considerably declined, falling from 901 in 2006 to 101 in 2007. The two parties were in the process of negotiating the adoption of a declaration on the social protection provided to Senegalese migrants residing in Spain. Furthermore, in 2006 Senegal had concluded an agreement on the coordinated management of migratory flows with France, in an attempt to simplify the formalities for issuing residence permits to temporary workers. It had also concluded agreements with Italy, one of which was a “platform to aid the private sector in Senegal and to enhance the diaspora”, which, with the participation of several ministries, aimed to create and strengthen local SMEs (small and medium enterprises) and to encourage Senegalese migrants who were resident in Italy to invest in Senegal.
5. **Mr. Thiam** (Senegal), referring to social security for migrant workers, said that Senegal had ratified ILO Convention No. 102 concerning Minimum Standards of Social Security. With the exception of unemployment benefit, excluded for financial reasons, Senegal had accepted financial responsibility for the nine categories of benefit corresponding to the nine categories of social risk encountered by workers, as set out in the ILO Convention. The ILO Convention authorized countries with underdeveloped economies to take responsibility for at least three out of the nine categories. He briefly outlined the Senegalese legislation on social security, which had gradually introduced coverage of eight categories of benefit (employment injury and work-related illness benefit, family benefit, maternity benefit, invalidity benefit, old age benefit, survivor’s benefit, sickness benefit and medical care). Sick pay for migrant or Senegalese workers was paid for by employers and was determined according to the worker’s length of service in the enterprise. The duration of payment of such benefits was set out in article 19 of the national inter-occupational collective agreement of 27 May 1999.
6. With regard to the payment of old age benefits outside Senegal, in accordance with the principle of territoriality the transfer of the entitlements of migrant workers returning home only took effect if there was a specific agreement with the country concerned. That rule also applied to Senegalese migrants. However, Senegal had decided to follow

international rules in that respect by paying pensions to returning migrant workers regardless of any reciprocal agreement. In addition, Senegal would soon be ratifying the multilateral convention on social security of the Inter-African Conference on Social Welfare (CIPRES).

7. **Mr. Thiaw** (Senegal) took up the issue of talibés, students of Koranic schools called *daras* who were aged between 3 and 14 and who were placed under the tutelage of a religious teacher in exchange for money or goods, that were in fact the daily alms collected by the talibés. He said that the Government was aware of the fact that the children were victims of that system and that Act No. 2005-06 on measures to combat trafficking in persons prescribed severe penalties for any person endangering the life of the talibés. He added that prison sentences had already been passed under the Act, notably in one case on a marabout.

8. **Ms. Ntap Ndiaye** (Senegal) said that the transfer of migrants' funds made a valuable contribution to Senegal's development. The central bank had estimated the funds transferred by Senegalese nationals living abroad through official channels to have been in the region of 410 billion CFA francs in 2006. Most of the money was used to cover everyday household expenses or was invested in the property market. Only 5 per cent was invested in productive activities. The remaining 95 per cent allowed households to maintain a decent lifestyle, thereby assisting the Government's efforts to combat poverty. The head of State's position in that respect was clear, insofar as he called for the international definition of poverty to be revised and his policy was aimed at improving the living and working conditions of the population. A ministry had been established for the development of microfinance in the country. In order to involve Senegalese expatriates in the country's development, the Ministry responsible for emigration regularly conducted awareness-raising campaigns among Senegalese communities to inform them about the various initiatives undertaken for their benefit, such as convenient procedures for investment and access to property, including access to public housing, so as to encourage Senegalese migrants to send funds home and to invest. Some migrants invested in sectors such as rural infrastructure, social sectors (education and health care) and revenue-generating sectors (small businesses, retail and wholesale trade). Agencies had been established to make it easier for Senegalese emigrants to invest, such as the national agency responsible for promoting investment and major works (APIX), the agency for the development and management of small and medium businesses (ADEPME) and the national fund for the advancement of young people (FNPJ).

9. She denied the alleged violations of the Convention made in the civil society shadow report the previous day. The Senegalese Government had not taken part in the preparation of the report because those allegations were based on biased and erroneous information. She reminded the Committee that the Senegalese Government had adopted bold legislative and practical measures and that the Act of 10 May 2005 was both punitive and protective, as indicated by its title, "Act on measures to combat trafficking in persons and related practices and to protect victims". In the shadow report, it was stated that the 2005 Act had made clandestine immigration illegal, which showed how relevant that provision was, since it was also effective against ill-treatment and mendicity, which were unrelated to clandestine emigration. It was worth noting that an NGO that had contributed to the report had participated in the inter-ministerial council the previous October, at which an inter-ministerial committee presided over by the Prime Minister had been set up in order to deal with the question of trafficking in persons.

10. With regard to the agreements concluded with the northern countries, she said that the bilateral agreements had existed prior to clandestine emigration, which had facilitated the establishment of a legal framework in conjunction with European States to regulate migratory flows so as to protect the interests of Senegalese nationals. Conversely, Senegal

refused to conclude agreements with States that did not fully take into account the latter's interests.

11. **Mr. El-Borai** (Rapporteur) noted with satisfaction that old age benefits were transferred to returning migrants, which was a rare occurrence in Africa. He asked whether Senegalese legislation made reciprocity a condition for allowing migrants social security coverage, particularly in the case of health insurance. He would also like a copy of the Act of May 2005.

12. **Ms. Poussi** would like to know whether the statistical data concerning the number of Senegalese migrants were disaggregated by sex, nationality, age or ethnic origin. She drew attention to the fact that the Senegalese Government's first written reply to the Committee (CMW/C/SEN/Q/1/CRP.1) was reductive as it referred only to nationals of the Economic Community of West African States (ECOWAS). She asked whether there was any particular obstacle to the ratification of ILO Conventions No. 97 concerning Migration for Employment and No. 143 concerning Migrant Workers (Supplementary Provisions). She would like more detailed information on the functioning of the fund to facilitate Senegalese investments from abroad, as well as on the consular assistance mechanism available to emigrants in an emergency. She wished to know the nature of the financial assistance provided in that connection, the conditions on which emigrants could access such assistance and whether the mechanism was effective. She would also like to know how the Senegalese authorities encouraged the participation of Senegalese emigrants in administrative work at the local and national levels and whether married Senegalese women who wished to emigrate required written permission from their husbands, whether officially or unofficially. Finally, she requested more detailed information on the meaning of the word "organized" in article 4 of the 2005 Act in order to ascertain whether the Act applied only in cases where trafficking was organized or whether it also referred to individual migrants.

13. **Mr. Alba** asked the delegation to elaborate on its replies to questions 27 and 29 (CMW/C/SEN/Q/1/CRP.1) and would like to know what had become of the 23,937 people held for questioning.

14. **Mr. Sevim** asked what became of social contributions if social security rights were not transferred. He would like to know whether migrants kept their pensions under the agreements concluded between Senegal and both France and Spain and, if so, to point out that the practice was discriminatory in relation to other countries. He would also like more details regarding bilateral employment agreements and to know whether Senegal was affected by a temporary, continuous or cyclical brain drain.

15. **Mr. Carrion Mena**, referring to the agreement between Senegal and Spain, asked whether a solution had been found to the tragedy of migrants leaving in makeshift embarkations. Moreover, he would like to know whether the State had the necessary facilities for collecting statistics and putting them to better use. Finally, he asked whether the Migrant Workers Convention took precedence over domestic legislation and, if so, whether that precedence was respected by the judicial authorities.

16. **The Chairperson**, speaking as a member of the Committee, asked how Senegal managed the problem of migratory flows at the regional level with its neighbouring countries.

17. **Mr. Thiam** (Senegal) explained that Senegal transferred pensions and was not waiting for a multilateral or bilateral agreement on social security to be concluded before transferring benefits to migrants on request in their home countries. Reciprocity was not always insisted upon from other States as Senegal did not cover all areas of social security. Discussions held by the commission responsible for the payment of benefits had led to the signing of bilateral agreements, which took immediate effect. Referring to a study conducted by ILO on possible inconsistencies between international and domestic

legislation, he said that there was no major obstacle to implementing Conventions No. 97 and No. 143; the Senegalese authorities only needed to ratify them.

18. **Ms. Ntap Ndiaye** (Senegal) said that under article 98 of the Senegalese Constitution, international treaties signed by Senegal took precedence over domestic legislation and that Senegal respected that order of precedence. While it had not yet ratified the Convention on the Rights of Persons with Disabilities, which it was about to do in the near future since it had already established a social framework law in that connection, or some ILO Conventions, the delay was essentially due to the time needed to align the provisions of those conventions with domestic legislation in order to avoid discrepancies once they had been ratified. The agreements concluded with France had allowed Senegal to manage its migratory flows better. The National Statistics Office, attached to the Ministry of Finance, did produce statistics but, since data were collected from a variety of sources and in view of the increase in clandestine migration, the Government could not trust the figures and so exercised caution in that regard. It was trying to establish a statistical facility wholly devoted to migratory flows. With regard to the brain drain, under the agreements concluded with France, the authorities had identified sectors to which Senegal could contribute highly-skilled workers. Out of the 108 occupations identified as possibilities, only 64 had proved attractive to Senegalese workers. It could be deduced that when the authorities managed migratory flows directly, the number of migrants tended to decrease, as full use was not made of existing channels. In an effort to sustain the country's development, the Government was currently drawing up an inventory of Senegalese skills abroad to call upon as necessary, while making every effort to safeguard the interests of partner countries and migrant workers.

19. **Mr. Thiaw** (Senegal) said that Senegalese consulates and embassies, in addition to their traditional functions of protecting and providing legal assistance to Senegalese nationals, could also help them out in the event of financial or material hardship. Applicants were required to fill out a form, on which they indicated the nature of the assistance they were requesting; the case was then examined as soon as possible by the Directorate of Social Affairs of the Ministry of Foreign Affairs, which would then draw on emergency social assistance funds.

The meeting was suspended at 11.30 a.m. and resumed at 11.55 a.m.

20. **Mr. Gueye** (Senegal) said that the fund to support investments from Senegalese abroad, established in 2008, was essentially financed from the State budget with the help of some partners, particularly technical assistance in the case of the International Organization for Migration (IOM). The fund aimed to support projects of returning Senegalese migrants that invested in the national economy. The sectors targeted were those likely to create the greatest number of jobs, such as the agricultural sector, small and medium businesses in the transport sector or bakeries. The funds were managed by a committee composed of representatives of the President's Office, ministries, public bodies with an interest in such projects and civil society. In addition to directly financing such projects, the fund acted as a guarantee fund in the case of major projects involving bank loans to new entrepreneurs.

21. **Mr. Thiaw** (Senegal), responding to the issue raised concerning article 4 of Act No. 2005-06 of 10 May 2005, said that the penalties prescribed for organized clandestine migration applied to smugglers. In view of the fact that Senegal did not require exit visas (article 14 of the Senegalese Constitution), all persons were free to leave the country; only those who organized clandestine migration were penalized because they endangered the lives of potential migrants attracted by the promise of a better life abroad and whom the law considered to be victims.

22. **Ms. Poussi**, while commending Senegal on its efforts to implement the Convention, regretted the lack of statistics, which provided valuable information that could help the

Committee assess the situation in respect of the Convention. Discussions held with NGOs had revealed that there was insufficient communication between the authorities and civil society and it was hoped that the latter would be consulted more readily in the future, for example, during the drafting of agreements concerning migrants. She welcomed Senegal's plans to strengthen its legal and legislative framework on migration and in particular its plans to ratify additional ILO Conventions. She also stressed the importance of training those involved in the migration process and the implementation of the agreements, as they seemed not to have fully mastered existing mechanisms. She said that Senegal could also do more to protect the rights of West African emigrants who transited through the country.

23. **The Chairperson** expressed his appreciation that such a high-ranking delegation had presented the country's initial report. However, he noted with regret that the State party had not provided written replies to the list of issues in time. The Committee had taken note of the advances made in terms of the protection of migrant workers, even though there still remained numerous challenges to overcome. He invited the State party to make the declarations referred to in articles 76 and 77 of the Convention.

24. **Ms. Ntap Ndiaye** (Senegal) assured the Committee that the delegation had taken good note of its observations and that the issue of the late submission of written replies would be taken up by the competent authorities and those responsible. She hoped that the dialogue had enabled the members of the Committee to assess Senegal's real commitment to effective migration controls as a means of stimulating development and ensuring the well-being of all migrants wherever they happened to be.

The meeting rose at 12.15 p.m.