



**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**

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

Initial reports of States parties

Senegal*

[1 December 2009]

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General introduction

1. The Government of the Republic of Senegal has the honour to submit its initial report to the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, pursuant to article 73 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which was adopted by the United Nations General Assembly in resolution 45/158 of 18 December 1990 and entered into force on 1 July 2003. Senegal ratified the International Convention on 9 June 1999. Through this ratification procedure, the Convention was incorporated in the internal legal order of Senegal, where it has acquired “authority superior to that of the laws” (Constitution, art. 98). Like the Constitution, the law and regulations, the Convention now forms part of the national corpus juris which State institutions are obliged to apply.

2. Senegal is situated in the western-most part of the African continent on the Atlantic Ocean where Europe, Africa and the Americas converge and at the crossroads of major air and shipping routes. Covering an area of approximately 196,722 km², it is bounded to the north by Mauritania, to the east by Mali, to the south by Guinea and Guinea-Bissau, and to the west by the Gambia and an Atlantic coast of over 500 km. Dakar, the capital, with an area of 550 km², is a peninsula in the extreme west of the country. The climate is of the Sudano-Sahelian type, characterized by a dry season from November to May alternating with a rainy season from June to October.

3. Senegal is a secular, democratic and social republic which guarantees the equality of all citizens before the law, without distinction as to origin, race, sex or religion, and respects all beliefs. The Constitution enshrines the principle of democracy and proclaims that national sovereignty belongs to the Senegalese people, who exercise it through their representatives or through referendums. The republican form of government is based on a democratic political system with separate, independent executive, legislative and judicial branches.

4. The constitutional amendments of 2007 and 2008 led to the establishment of a Senate and introduced a legislative power exercised by a bicameral Parliament composed of a Senate and a National Assembly. In the same perspective, Act No. 2008-32 of 7 August 2008 set up an Economic and Social Council. The President of the Republic and head of the Executive is elected by direct universal suffrage. He defines national policy, which is implemented by a Government led by a Prime Minister whom he appoints.

5. Senegal has some 11.4 million inhabitants, with an average annual population growth rate of 2.6 per cent and an average density of 48 inhabitants per km². More than 25 per cent of the population is concentrated in the Dakar region. The other densely populated area is in the centre of the country in the regions of Fatick, Kaffrine and Kaolack, the groundnut basin, with more than 35 per cent of the population. The east of the country is very sparsely populated.

6. Women make up 52 per cent of the population. Foreigners constitute approximately 2 per cent; they are mainly in the capital, Dakar, and are active in commerce, industry, services and international organizations. The religions practised are Islam, Christianity and animism (Muslims 94 per cent, Christians 5 per cent, and traditional religions 1 per cent).

7. An analysis of the age structure reveals the youthfulness of the population: the average age is 22, and 42.7 per cent of the population are under 15. The potentially active population (15 to 64 years) constitute 53.8 per cent and elderly persons (65 years and above), 3.6 per cent. The school population (ages 7 to 12) represent 17 per cent of total inhabitants, two thirds of whom live in the countryside.

8. The Senegalese population is also very diverse ethnically. Senegal has about 20 ethnic groups, in which the Wolof (43 per cent of the population), the Pulaar (24 per cent) and the Serer (15 per cent) predominate. The other groups are constituted by communities living in the southern areas of the country, particularly in the natural region of Casamance, which are mostly Catholic but often have a strong animist tradition: these are the Diola (3 per cent), who constitute the largest such community, and the Mandingue (5.3 per cent) and Bambara (0.5 per cent each), which are small communities in the outlying regions close to Mali or Guinea. Other ethnic minorities live in the mountains of the south-east, for example the Bassari in the foothills of Fouta-Djalón.¹

9. This ethnic diversity is accompanied by a cultural dynamism nurtured by age-old traditions particular to each group. Since the country acceded to international sovereignty, the Government has always conducted policies for the enhancement of authentic and positive traditional cultures and the development of the national languages in the same way as the country's official language, French. Inter-ethnic marriages, peaceful coexistence of religious communities and the tradition of friendly banter are all values guaranteeing the cohesion of the Senegalese nation.

10. Regarding the economy, independent sources indicate that, in 2004, gross national product (GNP) stood at \$7.2 billion, or an average per capita income of \$700. In 2005, President Abdoulaye Wade launched a national "Accelerated Growth Strategy" designed to elevate the country to the rank of emerging nation, with particular emphasis on modernization of agriculture and development of the agro-food industry. The Return to Agriculture (REVA) plan encouraging young people and particularly expatriates and victims of clandestine migration to develop agricultural projects and the Great Offensive for Agriculture, Food and Abundance (GOANA) launched in 2008 in response to the food crisis demonstrate the political will of the State to make agriculture an important lever in economic and social development.

11. There has been considerable development of the tertiary sector (tourism, teleservices), the textile industry and clothing, as well as seafood. In addition, "major projects" have been launched to correct the shortage of infrastructure impeding national development (construction of modern road infrastructure linking Dakar to the inland, new international airport at Ndiass, motorway between Dakar and Thiès to relieve congestion in Dakar, project for the construction of an ore-handling port at Bargny, modernization of the rail network, iron mining in eastern Senegal, phosphate mining in Matam, etc.).

12. The budgetary resources allocated to education, from preschool to higher education, rose from 35 per cent in 2003 to 37 per cent in 2004 and 40 per cent in 2005, thanks to the proactive policy of the President of the Republic. The Government has made considerable efforts to increase the supply of primary education in rural areas. During the period 2000–2004, the Government built 7,109 new classrooms and renovated a further 930. At the national level, there are 295,474 secondary-school students, 42 per cent of them girls.²

13. The priority given to primary health care at the national level has resulted in a reasonable distribution of health facilities. Coverage by health workers (1 per 11,000 inhabitants – close to the national target) has been reinforced by taking additional measures in accordance with the recommendations of the Bamako Initiative (reducing costs, improving management, involving the population, streamlining prescriptions).

¹ Source: Ministry of the Economy and Finance, National Statistics and Demography Agency (ANSD), "Situation économique et sociale du Sénégal", 2006 edition.

² Source: Ministry of Education, data for 2004. See also the report of Senegal to the Committee on the Rights of the Child (CRC/C/SEN/2).

14. These measures have permitted free or less expensive access to health services, implemented through programmes and action plans including:

- The Expanded Immunization Programme (PEV)
- Antenatal consultation (CPN)
- Primary medical consultation (CPC)
- Treatment for older persons (Sesame plan)
- The Programme for the Integrated Management of Childhood Illness
- The Epidemic Management Programme
- The Nutrition Enhancement Programme (PRN)

15. The Government also attaches top priority to the fight against malaria and HIV/AIDS, given their impact on human development. The results of the National Action Plan against HIV/AIDS, with a component “orphans and children rendered vulnerable by HIV/AIDS” (OEV), have been satisfactory. The rate of HIV prevalence in the general population was estimated in 2005 at 0.7 per cent (Demographic and health survey, 2005) and 1.5 per cent at so-called “sentinel sites”. The National Action Plan against HIV/AIDS was drawn up for the period 2002–2006. A further National Action Plan will cover the period 2007–2011.³

16. Regarding social security policy, Senegal has ratified International Labour Organization (ILO) Convention No. 102 and has established a modern social security system for workers and members of their families. A review of benefits since 2000 led, over the period 2002–2008, to a 55 per cent increase in the nominal value of pensions and a 50 per cent increase in their real value, as well as to their fortnightly payment. The family allowance rose from CFAF 750 to CFAF 2,400 a month per dependent child in the public sector. In the private sector, the Government provides a family allowance of CFAF 6,750 per quarter for each child through the Social Security Fund. These allowances are payable in respect of children in education up to the age of 21, children not attending school up to the age of 15 and children serving an apprenticeship (including in the crafts sector) up to the age of 18.⁴

17. Through its Department for Health, Social and Family Action, the Social Security Fund offers other benefits for vulnerable groups, such as low-cost medicine and nutritional recovery. The present social security scheme operates through formal social protection mechanisms covering only workers affiliated to the Social Security Fund. Senegal has recently developed a National Strategy for Social Protection, the main features of which are the extension of social protection to the non-formal sectors and social protection for vulnerable groups.

18. Persons with disabilities are thought to constitute between 6 and 10 per cent of the Senegalese population, disaggregated as follows: 32.76 per cent with motor disabilities; 16.6 per cent visually impaired; and 50.64 per cent in other categories, including deaf mutes, albinos, the mentally ill and persons suffering from Hansen’s disease (leprosy). There are programmes and services geared to the disabled, in particular: the Programme of Education with an inclusive education dimension which has enabled some disabled children to be enrolled in State primary schools; preschool institutions (of the “Case des Tout-Petits” type), with appropriate adjustments to the physical environment; the Talibou Dabo Centre

³ Source: Ministry of Health and Medical Prevention.

⁴ Source: Ministry of Civil Service, Employment and Professional Organizations.

for the social reintegration of persons affected by motor disability; the Verbo-tonal Centre for the social reintegration of deaf mutes; and the Centre for visually impaired children at Thiès. With regard to the Convention on Persons with Disabilities, the law authorizing the President of the Republic to ratify that text was examined by the Senegalese Parliament, and was adopted by the National Assembly at its plenary meeting of 26 October 2009 and by the Senate at its plenary meeting of 20 November 2009.

19. The Government of Senegal has launched several initiatives for reducing poverty and supporting disadvantaged families:

- A Social Development Fund (from 2002 to 2005), which supported the implementation of 1,172 projects together worth CFAF 10.5 billion (including CFAF 2 billion for projects directly affecting families), with 486 Community Base Organizations (OCB), including 300 women's OCBs. The total number of beneficiaries is 917,385.
- The Poverty Reduction Support Programme (PAREP), funded with CFAF 1.3 billion between 2003 and 2005, to help marginalized and vulnerable groups (women, young people, children, the disabled, the elderly, displaced persons and refugees) through their organizations.
- The Anti-Poverty Programme (PLCP), with a total expenditure of CFAF 15 billion, providing microcredits to 75,236 persons, 80 per cent of them women.
- The National Solidarity Fund, with an annual expenditure in 2004 estimated at CFAF 650 million.⁵

I. General information on the implementation of the Convention

A. Description of the constitutional, legislative, judicial and administrative framework regulating the implementation of the Convention, and bilateral, regional or multilateral agreements on migration

20. The constitutional, legislative, judicial and administrative framework in force in Senegal reflects the existence of a real political will to implement the provisions of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The Senegalese legal arsenal as a whole grants considerable attention to migrant workers established in Senegal without any discrimination, as well as to nationals of States non-signatories of that Convention where thousands of Senegalese are living, often in difficult conditions. Senegalese abroad, who are fully fledged citizens and important participants in the economic and social development of the country, receive assistance from the State authorities through the Ministry of Foreign Affairs.

A.1 Constitution

21. The Constitution of Senegal bases itself both on the primacy of law and on the international and regional commitments entered into by the State to lay down the rules and fundamental principles for the organization and functioning of the State and the national community. Supplementing the constitutional guarantees described in detail in the general

⁵ Source: Ministry of the Family, Food Security, Female Entrepreneurship, Microfinance and Infancy (Poverty Reduction Strategy Document (DSRP) 2), Ministry of Finance.

introduction to this report, article 25 of the Constitution recognizes the right of everyone to work and to seek work, without any discrimination between men and women in respect of employment and wages. This important standard-setting position, which draws heavily on international human rights law, demonstrates the unequivocal political will of the Senegalese authorities to take part in the struggle being waged by the international community within the framework of the United Nations and regional and bilateral cooperation to combat trafficking in persons and related practices and to protect migrant workers, including expatriate Senegalese. Senegalese abroad exercise their civil and political rights on the same terms as nationals (right to vote, right of access to administrative and social services). In many respects, the relevant provisions of the Constitution regarding the inalienable rights of the person are extended naturally to foreigners, particularly migrant workers and members of their families living in Senegal, through the existence of a fairly substantial body of legislation.

A.2 Legislation, regulations and judicial framework

22. There are a number of texts that illustrate the State's commitment to the legislative implementation of the International Convention on the Protection of All Migrant Workers and Members of Their Families. Over and above the general texts such as the Electoral Code, the Criminal Code and the Family Code, which guarantee the implementation and effective protection, without any discrimination, of individual and collective rights and freedoms provided for by the Constitution, specific texts have been adopted which take account of the interests of all migrant workers lawfully established in Senegalese territory, and also those of the Senegalese diaspora.

23. Particular mention can be made of the following:

- **Act No. 71-10 of 25 January 1971 on conditions of admission, stay and establishment of foreigners in Senegal and its implementing Decree No. 71-860 of 28 July 1971**

Migrant workers wishing to take up residence in Senegal must comply with the requirements and conditions laid down in this Act, the implementation of which is essentially ensured by the Ministry of the Interior, in order to obtain a residence or establishment permit.

24. Under Senegalese legislation, the admission of any migrant worker to salaried employment is subject to prior administrative authorization constituting a work permit. In granting such permits, the competent authority takes account of the prevailing situation in the job market, and in particular, the possibilities of recruiting nationals who fit the professional profile for the type of job concerned.

25. Once the work permit has been granted, the migrant must apply to the Aliens Police for a foreigner's identity card equivalent to a residence permit.

26. As of 2 July 2003, Ministry of the Interior statistics put the number of migrants registered in Senegal at 53,966: 29,926 men and 24,040 women.

27. Foreigners wishing to take up residence in Senegal in order to engage in remunerated activity must produce a regulation employment contract bearing the stamp of approval provided for by the Labour Code. In the case of non-remunerated activities, the applicant must prove his means of support.

28. Article 13 of the implementing Decree expressly states that "the residence or establishment permit is individual. It does, however, extend to children of the alien concerned who are under the age of 15, if he (the applicant) has so requested and provided that his children accompany him at the time of his entry into Senegal".

29. In order to facilitate the use of foreign manpower by Senegalese enterprises, a system for alleviating the conditions for establishment is provided for (exemption from payment of a repatriation deposit and from taxes).

30. These general regulations are eased considerably in the case of persons originating from integration groupings of which Senegal is a member. For example, the constituent instrument of the Economic Community of West African States (ECOWAS) and its different agreements guarantee the free movement of goods and persons within the Community. The instruments of the West African Economic and Monetary Union (WAEMU) have further strengthened the right of establishment of Union nationals. Respect for these community rules is overseen by joint courts of justice. The Organization for the Harmonization of Business Law in Africa (OHADA) offers a harmonized legal framework ensuring greater security of investment and social protection for workers.

- **Act No. 97-17 of 1 December 1997 (Labour Code); the various social acts (Act No. 75-50 of 3 April 1975 on social insurance institutions and Decree No. 75-895 of 14 August 1975 on the organization of company or inter-company sickness insurance institutions and the obligation to establish such institutions; Act No. 73-37 of 31 July 1973 (Social Security Code) and Decree No. 75-455 of 24 April 1975 making it obligatory for all workers to be affiliated to a pension scheme; and bilateral agreements**

31. Foreigners employed in Senegal enjoy a specific legal protection regime. In addition to work and remuneration conditions identical to those of nationals, migrants are entitled, under the provisions of the Labour Code and in particular its article L106, to family reunification and housing at the expense of the employer. Employers meet the travel costs of migrant workers, their spouse and their minor children habitually living with them.

32. Surveys conducted by the Cheikh Anta Diop University of Dakar and the Gaston Berger University of Saint-Louis indicate that there is equality of opportunity between nationals and foreigners in the recruitment of teachers and researchers. For example, of the 103 teachers and researchers recruited by the second university of Senegal, 10 are of foreign origin: 1 Mauritanian, 2 Beninese (of whom 1 is naturalized), 1 Niger national, 1 Congo-Brazzaville national, 2 nationals of the Democratic Republic of the Congo, 1 national of the Central African Republic, 1 Malian and 1 Cameroonian. These workers enjoy the same advantages as nationals and, in addition to housing, have paid travel to their country of origin every four years, together with their spouse and minor children. Travel to the country of origin cannot, however, be combined with the study leave to which all teachers or researchers are entitled once every two years.

33. The right to organize and its protection are recognized for all persons exercising their professional activity in Senegal, including migrant workers. All foreign nationals are free to join a trade union. If the foreign national has been resident in Senegal for at least five years, he can accede to administrative or managerial functions in a trade union, provided that his country of origin accords the same right to Senegalese nationals.

34. Migrant workers and members of their families benefit from coverage of social risks, on the same conditions and according to the same rules as apply to Senegalese workers.

35. As regards the payment of retirement pensions, national legislation lays down no restrictions regarding the place of residence of the migrant worker, who may choose to receive his pension in Senegalese territory, in his country of origin or in any other place of his choice. The costs involved in making the pension available are met by the retirement scheme to which the beneficiary belongs.

“Recognition of the rights of migrant workers by legislation or regulations is certainly a significant step forward, but their application may leave something to be desired. Should these rights be violated, the migrant worker may report his employer to the Labour and Social Security Inspectorate of his place of employment. The latter must examine the complainant’s application with a view to reconciling the various parties. If an amicable settlement cannot be achieved, the worker may have recourse to the courts, specifically the Labour Tribunal.” (*Source*: Papa Demba Fall, “Migration internationale et droits des travailleurs au Sénégal”, 5 April 2003, International Migration and Multicultural Policies Section, UNESCO Series of Country Reports on the Ratification of the United Nations Convention on Migrants).

36. This much appreciated legislation draws extensively on bilateral or multilateral arrangements and on international conventions. Senegal has ratified some 30 ILO Conventions, and the following table provides an overview of the situation regarding the conventions signed and ratified.

Night Work (Women) Convention, 1919 (No. 4)	Ratified 4.11.1960
Minimum Age (Industry) Convention, 1919 (No. 5)	Ratified 4.11.1960, denounced 15.12.1999
Night Work of Young Persons (Industry) Convention, 1919 (No. 6)	Ratified 4.11.1960
Minimum Age (Agriculture) Convention, 1921 (No. 10)	Ratified 22.10.1962
Right of Association (Agriculture) Convention, 1921 (No. 11)	Ratified 4.11.1960
Workmen’s Compensation (Agriculture) Convention, 1921 (No. 12)	Ratified 22.10.1962
White Lead (Painting) Convention, 1921 (No. 13)	Ratified 4.11.1960
Weekly Rest (Industry) Convention, 1921 (No. 14)	Ratified 4.11.1960
Workmen’s Compensation (Occupational Diseases) Convention, 1925 (No. 18)	Denounced 10.05.1971
Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)	Ratified 22.10.1962
Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)	Ratified 4.11.1960
Forced Labour Convention, 1930 (No. 29)	Ratified 4.11.1960
Minimum Age (Non-Industrial Employment) Convention, 1932 (No. 33)	Ratified 4.11.1960, denounced 15.12.1999
Night Work (Women) Convention (Revised), 1934 (No. 41)	Denounced 22.10.1962
Holidays with Pay Convention, 1936 (No. 52)	Ratified 22.10.1962
Labour Inspection Convention, 1947 (No. 81)	Ratified 22.10.1962
Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	Ratified 4.11.1960
Night Work (Women) Convention (Revised), 1948 (No. 89)	Ratified 22.10.1962

Protection of Wages Convention, 1949 (No. 95)	Ratified 4.11.1960
Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96)	Ratified 22.10.1962
Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	Ratified 28.07.1961
Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99)	Ratified 22.10.1962
Equal Remuneration Convention, 1951 (No. 100)	Ratified 22.10.1962
Holidays with Pay (Agriculture) Convention, 1952 (No. 101)	Ratified 22.10.1962
Social Security (Minimum Standards) Convention, 1952 (No. 102)	Ratified 22.10.1962
Abolition of Forced Labour Convention, 1957 (No. 105)	Ratified 28.07.1961
Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	Ratified 13.11.1967
Final Articles Revision Convention, 1961 (No. 116)	Ratified 13.11.1967
Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117)	Ratified 13.11.1967
Hygiene (Commerce and Offices) Convention, 1964 (No. 120)	Ratified 25.04.1966
Employment Injury Benefits Convention, 1964 (No. 121)	Ratified 25.04.1966
Employment Policy Convention, 1964 (No. 122)	Ratified 25.04.1966
Fishermen's Competency Certificates Convention, 1966 (No. 125)	Ratified 15.07.1968
Workers' Representatives Convention, 1971 (No. 135)	Ratified 24.08.1976
Minimum Age Convention, 1973 (No. 138)	Ratified 15.12.1999
Worst Forms of Child Labour Convention, 1999 (No. 182)	Ratified 1.06.2000

Source: International Labour Organization.

In addition, the Tax Code, the Investment Code, the Customs Code and specific bilateral agreements guarantee workers of some nationalities, established in Senegal, the option of more advantageous social security coverage, exemption from tax on personal effects and belongings, repatriation of assets and a single taxation regime.

- **Act on combating trafficking in persons and smuggling of migrants**

37. Senegal adopted Act No. 2005-06 of 10 May 2005 combating trafficking in persons and related practices and protection of victims, following ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime. This 2005 Act criminalizes trafficking, exploitation of the begging of others, clandestine migration by land, air and sea and falsification of identity and travel documents, while granting legal and social protection to victims and witnesses. It should be noted that Senegal had previously,

on 14 October 2003, ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

- **Act No. 61-10 of 7 March 1961, as amended by Act No. 89-42 of 26 December 1989, on Senegalese nationality**

38. The acquisition of Senegalese nationality by foreigners requires a decision of the public authorities on the request of the applicant. Applicants must have at least 10 years of uninterrupted residence in Senegal. This period is reduced to five years for someone who is married to a Senegalese national, has rendered exceptional service to the nation, or has worked for five years in the civil service or a public institution.

39. In addition, “The following may opt for Senegalese nationality from the age of 18 up until the age of 25:

1. A legitimate child born of a Senegalese mother and a father of foreign nationality;
2. A national child, when the parent in respect of whom filiation has been established in the second instance is Senegalese, if the other parent is of foreign nationality.”

A foreign woman who marries a Senegalese man may acquire Senegalese nationality, unless she expressly renounced it at the time of the marriage. Conversely, a Senegalese woman who marries a foreign man does not lose her nationality of origin, unless she expressly asked to forfeit it with a view to her marriage. In that event, the forfeiture will apply only if she can acquire the nationality of her future husband.

40. According to the university surveys mentioned earlier, long-established communities have a substantial number of members born in Senegal: 59.61 per cent of Beninese, 41.19 per cent of Ivorians, 38.38 per cent of Burkina Faso nationals and 24.63 per cent of Niger nationals. In the absence of detailed statistics, the status of these very discreet communities is little known. While almost all the children are born in Senegal, some observers say that it is difficult for them to acquire Senegalese nationality, particularly because of the slowness of the naturalization procedure.

- **Acts on freedom of association and expression and the fight against discrimination**

41. These public freedoms are guaranteed by several legislative provisions, including:

(a) Act No. 79-02 of 4 January 1979 repealing and replacing article 814, subparagraphs 2 and 3, of the Code of Civil and Commercial Obligations, and article 2 of Act No. 68-08 of 26 March 1968 amending book VI, chapter II (Associations), of that Code and penalizing the establishment of illegal associations;

(b) Act No. 79-03 of 4 January 1979 repealing and replacing article 5, first subparagraph, of Act No. 65-40 of 22 May 1965 on seditious associations;

(c) Act No. 81-17 of 15 May 1981 on political parties;

(d) Act No. 81-77 of 10 December 1981 on the punishment of acts of racial, ethnic or religious discrimination.

- **Main social security agreements concluded by Senegal**

42. Senegal has signed bilateral agreements in this area with a number of countries, including:

- (a) France: Agreement of 5 March 1960, renegotiated on 29 March 1974 and ratified by Act No. 75-33 of 3 March 1975. The Agreement limits the number of dependent children to four;
- (b) Gabon: Agreement of 1982 signed and ratified by Senegal;
- (c) Mali: Convention of 13 May 1965, renegotiated on 26 July 1996 and ratified by Senegal in 1998. The Convention applies only to mutual administrative assistance;
- (d) Mauritania: Convention of 28 October 1972, replaced by a new convention dated 5 December 1987. It applies only to professional risks (payment of pension arrears), and it does not provide for any social benefits, since the Mauritanian rate is higher.

Judicial implementation

43. Under article 98 of the Constitution, duly ratified conventions form part of the internal legal order of Senegal and have “authority superior to that of the laws”. Like the Constitution, the law and regulations, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families now forms part of the national corpus juris which the judicial institutions of the State are obliged to apply. In other words, migrant workers, like nationals, are entitled to invoke the provisions of the Convention in Senegalese courts, and also to institute any civil, criminal or administrative proceedings to uphold their interests or put an end to and obtain reparation for a violation.

44. Disputes between workers and employers are brought before specialized courts (labour tribunals), where the proceedings are free of charge.

A.3 Administrative implementation

45. There are several ministerial departments within the Government that are involved in implementing the Convention. Alongside the ministerial departments and programmes engaged in implementing economic, social and cultural rights (health, education, basic social services, poverty reduction strategies, population matters and statistics, etc.), others are particularly concerned with the management of migration flows and migrants’ living conditions. The Ministries in question are the following:

- The Ministry of Foreign Affairs, which is responsible for the management of consular affairs for Senegalese established abroad.
- The Ministry of the Interior, which is responsible for supervising the regulations regarding the entry and stay of foreigners. This department has specialized services competent to issue migrants and members of their families with the legally required administrative documents. Moreover, as regards the emigration of young Senegalese to Spain in particular, this department has piloted the conclusion of bilateral agreements to find solutions to clandestine migration by sea. A framework agreement was signed with the Kingdom of Spain on 10 October 2006, enabling 202 young Senegalese workers to work in Spain in a regular situation. Similarly, an amendment to the Agreement on the coordinated management of migration flows was concluded with the Government of France on 25 February 2008.
- The Ministry of Civil Service, Employment and Professional Organizations, which is responsible for guaranteeing the enforcement of labour and social security laws, and particularly for ensuring that migrant workers’ contracts and working conditions are in conformity with the law.
- The Ministry for Senegalese Abroad, whose essential function is to provide social assistance to Senegalese established abroad by supporting their economic projects and developing reintegration policies to facilitate their return.

The Senegalese Government has also devised a mechanism to protect Senegalese migrants in the event of a crisis, particularly on a continent-wide scale. The Government has funded a number of repatriation operations for Senegalese nationals in precarious circumstances.

B. Quantitative and qualitative information on the characteristics and nature of migration flows and description of the actual situation concerning the practical implementation of the Convention

46. The geostrategic position of the country, at the junction of sea and air routes to the American and European continents, and its historic heritage as the main capital of the former French West Africa, make Senegal a leading transit point and destination for major migration flows, particularly from the West Africa region.

47. As regards migration flows of foreigners established in Senegal, the characteristics and nature of migration can be analysed from several angles. Senegal is a country of departure, transit and destination favoured by its geographical situation (it borders on five countries and has a vast expanse of sea that is difficult to control).

48. Since the year 2000, empirical observation, particularly in the capital, Dakar, suggests that the figures from the most recent official censuses can be doubled. The gradual economic collapse of the countries of the West African region, buffeted by recurrent political crises, has considerably increased migration flows to Senegal, where immigration is substantial because of tax concessions, the large informal sector (particularly trade) and cheap manpower, and also because of the establishment in the country of more and more new businesses on account of the buoyancy of the Senegalese economy resulting from the new regime in place.

49. However, the shortcomings of the available statistical data are a major source of difficulty in assessing the real level of implementation of the Convention. There are several obstacles making it difficult to collect information on migration flows, particularly the deficiencies of statistical data concerning economic migration, both internally and as regards Senegalese expatriates.

50. However, Ministry of the Interior statistics and the censuses of 1976 (RGP – general population census) and 1988 (RGPH – general population and housing census) provide some information. The number of foreigners living in Senegal increased from 119,000 in 1976 to 122,340 in 1988. In 1993 the foreign population was estimated at 121,321 persons, or 1.5 per cent of the total population (Migration and Urbanization Survey in Senegal – EMUS, 1997). Over the same period, some 285,000 expatriates were registered by the census. The non-African group, estimated at about 25,000 persons in 1997, is constituted by Europeans and particularly French, the largest European group in Senegal, and Lebanese, who are present in the formal sector of small and medium-sized enterprises (SMEs) and small and medium-sized industries (SMIs). The years 2000 were marked by the arrival of Taiwanese and Chinese.

51. Once the work permit is granted, the migrant must apply to the Aliens Police for a foreigner's identity card, equivalent to a residence permit.

52. Some migrants active in the informal sector fail to respect the procedure laid down in Act No. 71-02 of 10 February 1971 on residence by foreigners in Senegal, which requires foreigners to obtain a residence permit and to declare themselves to the consular authorities of their country within three months from their date of installation. The procedures relating to eligibility for refugee status have also been misused. Applicants who have not been able to obtain such status prefer to live in hiding and take advantage of the

clemency of the Government which, believing as it does in an African citizenship, does not carry out systematic mass expulsions.

53. The high unemployment rate among young Senegalese does not facilitate the excess of migrants to salaried employment, but there is nothing to prevent them from joining the informal sector. The vast majority of migrants are reduced, individually or collectively, to inventing strategies for carving themselves out a commercial niche, particularly in the major urban centres, or occupying slots left vacant by nationals.

54. The earlier remarks also apply to Senegalese expatriates. There has not yet been an exhaustive census of Senegalese abroad, although the consular census conducted on the occasion of the presidential and legislative elections in 2007 reveals a high figure of some 1 million persons. In 2007, Senegal, conscious of the important contribution of Senegalese abroad to the national economy (\$925 million in 2007), undertook ambitious reforms aimed at strengthening the institutional infrastructure of the technical ministry in charge of these matters, so as to encourage greater access to housing and successful socio-economic reintegration, but also involving the establishment in host countries of specialized services capable of attending to the day-to-day difficulties faced by Senegalese abroad.

55. Senegalese expatriates, who are real agents of development, have set up public structures in the health, education and microfinance sectors in certain parts of the country. Traceable official transfers by Senegalese expatriates to their country of origin are estimated at CFAF 242 billion, or 7 per cent of the gross domestic product (GDP) and 82 per cent of official development assistance.

56. An exponential growth in emigrants with access to housing has also been recorded. Senegalese abroad have received 30 per cent of the credits granted over the last five years by the Senegal Housing Bank (BHS), according to the Bank's authorities. Senegalese expatriates also constitute "a very important group" for the BHS savings branch, accounting for 50 per cent of the volume of savings in the Bank, which specializes in the financing of social housing (*Source*: BHS report, 2005).

57. However, the failure of some host countries to ratify the Convention might be a source of difficulty for the defence of expatriates' interests. Senegalese migrant workers who wish to draw their retirement pension are obliged to remain in the territory of the host country. In the event that they return to Senegal or change their place of residence, payment of the pension is suspended and no provision is made for reimbursement of contributions.

C. Information on measures taken to disseminate and promote the Convention

58. As indicated in the general introduction to this report, Senegal quickly distinguished itself in the establishment of durable mechanisms and institutions for promoting and strengthening human rights. The Ministry of the Interior and the Ministry for Senegalese Abroad have developed information strategies, particularly through the Internet, to inform migrants and Senegalese abroad of government legislation, policies and programmes to promote and protect their rights. It should also be stressed that the Government of Senegal has always supported the broadest possible ratification of the Convention with its statements in the appropriate international forums.

II. Information concerning the provisions of the Convention

A. Implementation of the general principles of the Convention

Articles 1 (1) and 7: Non-discrimination

59. In pursuance of the provisions of the Constitution and the laws in force, no account can be taken of the sex, race, religion or opinion of migrant workers and members of their families in determining their treatment (title II of the Constitution, Criminal Code and Code of Criminal Procedure).

60. The Labour Code (Act No. 97-17 of 1 December 1997) and the national inter-occupational collective agreement prohibit any discrimination against workers, whatever their status (migrant workers or not) in regard to recruitment, wages, working conditions, sanctions and social security.

61. In addition, Acts Nos. 79-02, 79-03 and 81-17, all relating to the legal framework for associations and political groupings, prohibit, for admission to the association, any discrimination based on race; sex; religion, except for associations of an exclusively religious character; or political opinions, except for political parties or groupings attached to them. Violation of these principles is punished by articles 166 bis, 256 bis, 257 bis, 277, 278, 281, 295 and 296, subparagraph 2, of the Criminal Code.

Article 83: Right to an effective remedy

62. In Senegal, any person, whether foreign or otherwise, whose rights and freedoms have been violated can apply to the competent judicial authority to have his rights restored and, as appropriate, seek reparation for injury. The authority examines and rules on the application submitted to it. Its substantiated decision is notified to the applicant. However, foreigners must deposit security to cover possible court costs payable by them (Code of Civil Procedure, art. 110). In social courts, however, the procedure is free of charge. Senegalese law recognizes the exception of unconstitutionality of laws, whereby a complainant may challenge a law as being contrary to the Constitution or to a duly ratified convention.

Article 84: Duty to implement the provisions of the Convention

63. A review of the legislation in force prior to the ratification of the Convention showed that Senegal had already adopted a series of provisions to protect migrant workers and members of their families.

64. Under article 98 of the Constitution, duly ratified conventions form part of the internal legal order of Senegal and acquire "authority superior to that of the laws". Like the Constitution, the law and regulations, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families now forms part of the national corpus juris which the political, judicial and administrative institutions of the State are obliged to apply.

B. Implementation of Part III of the Convention: Human rights of all migrant workers and members of their families

Article 8: Right to leave any country, including one's own, and to return

65. The Constitution of Senegal guarantees freedom of movement to all persons. Subject to compliance with the administrative formalities, anyone may leave or return to Senegal.

In addition, the legislation in force authorizes migrant workers to be accompanied or joined by members of their families. Article L159 of the Labour Code even requires the employer to meet the travel costs of the worker, his spouse and his minor children.

Articles 9 and 10: Right to life; prohibition of torture; prohibition of inhuman or degrading treatment

66. Article 7 of the Constitution provides that the human person is sacred and inviolable. The individual is entitled to “physical integrity, and particularly to protection against all physical mutilation”. Any act of torture or inhuman treatment is punished by the Criminal Code, particularly its article 295-1, thereby giving effect to the recommendations of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in New York on 10 December 1984 and ratified by Senegal on 15 July 1986.

67. In 2005, punitive measures were reinforced by the Act prohibiting and punishing trafficking in persons and related practices, which made all slavery-like practices criminal offences.

68. With regard to enterprises and other places of work, in exercising supervision and his prerogatives, the employer is required to respect the physical and moral integrity and dignity of the worker. Sexual harassment is also an offence under the Criminal Code.

Article 11: Prohibition of slavery and forced labour

69. Act No. 97-17 of 1 December 1997 (Labour Code) prohibits forced or compulsory labour, which is defined as “any work or service demanded from an individual under threat of any kind of penalty or sanction and which that individual has not willingly offered to perform”.

Articles 12, 13 and 26: Right to freedom of opinion and expression; right to freedom of thought, conscience and religion; right to join a trade union

70. Individual freedoms are guaranteed by the Constitution and are elaborated upon by various provisions of its title II. Anyone, regardless of nationality, possesses the freedoms of opinion, expression, thought and religion. The Constitution also provides for the freedom to form professional associations. Freedom to organize is also guaranteed to all workers, whether or not they are expatriates, by article 25 of the Constitution and articles L9 and L29 of the Labour Code.

Articles 14 and 15: Prohibition of arbitrary or unlawful interference with privacy, family, home, correspondence or other communications; prohibition of arbitrary deprivation of property

71. Under article 16 of the Constitution, “The home is inviolable ... measures infringing or restricting inviolability of the home can be taken only to guard against a collective danger or to protect persons in mortal peril.” The Constitution further provides, in article 13, that “secrecy of correspondence and postal, telegraphic, telephonic and electronic communications is inviolable. No restrictions can be imposed on this inviolability save in application of the law.” Respect for these constitutional principles is guaranteed by the provisions of the Criminal Code.

Articles 16 (paras. 1–4), 17 and 24: Right to liberty and security of person; safeguards against arbitrary arrest and detention; right to recognition as a person before the law. Articles 16 (paras. 5–9), 18 and 19: Right to procedural guarantees

72. Like all Senegalese citizens, migrant workers and members of their families enjoy the right to liberty and security of person. The Senegalese Code of Criminal Procedure guarantees respect for the rights of the defence in criminal proceedings. A person can be detained for preliminary inquiries for a period not exceeding 48 hours, unless extension for a further 48 hours is authorized by the Public Prosecutor. On the expiry of the initial custody period, the accused is informed of his right to communicate with a lawyer and to be examined by a doctor of his own choosing, failing which the proceedings can be declared invalid. Moreover, judicial police officers are liable to disciplinary and criminal penalties for failure to observe the legal requirements.

73. In investigative and trial bodies, an adversarial procedure is applied and the accused has appropriate remedies against procedural acts and also corrective remedies such as appeal and application for judicial review. With respect to the treatment of prisoners, foreigners in Senegal are not discriminated against in any way. Detention facilities are visited regularly by human rights organizations. In addition, following ratification of the Optional Protocol to the Convention against Torture, Senegal has established a national torture prevention mechanism.

74. Furthermore, the consular authorities can request information on the grounds for the arrest of their nationals and on conditions of detention. (For additional information, see explanations under the section on judicial implementation.)

Article 20: Prohibition of imprisonment, deprivation of authorization of residence or work permit and expulsion merely on the ground of failure to fulfil a contractual obligation

75. Under Senegalese law failure to fulfil a contractual obligation is, in principle, a purely civil matter falling outside the sphere of criminal law. Consequently, a migrant worker's failure to comply with a contractual obligation does not make him liable to imprisonment, which is a criminal penalty. (For further information, see the explanations under the section on judicial implementation.)

76. As regards employment disputes, the labour tribunals, basing themselves on the Labour Code, rule on the responsibilities associated, in particular, with breach of the contract of employment for non-observance or non-fulfilment of a prior obligation.

77. In any event, a migrant worker dismissed for non-fulfilment of his contractual obligation vis-à-vis his employer is not automatically deprived of his residence permit. He has the possibility of seeking alternative employment or proving that he has the means of support required by the legislation on entry and stay of foreigners.

Articles 21, 22 and 23: Protection from confiscation and/or destruction of identity and other documents; protection against collective expulsion; right to have recourse to consular or diplomatic protection

78. Human rights associations have not received any reports of proven cases of illegal confiscation or destruction of identity and other documents belonging to foreigners. In any event, the Senegalese authorities, through the Ministry of Foreign Affairs, would act on any official request for information from the consular authorities of foreigners alleged to have been subjected to such irregularities. Of course, in situations of fraud, usurped identity or falsified documents, the competent courts systematically order the confiscation and destruction of the documents concerned.

79. Concerning the administrative expulsion of foreigners, the situation of every migrant is assessed individually in accordance with the provisions of Act No. 71-10 of 25 January 1971 on conditions of admission, stay and establishment of foreign workers in Senegal and its implementing Decree No. 71-860 of 28 July 1971. A decision to expel must be substantiated, and the person concerned has the right to challenge the administrative act before the Council of State on grounds of abuse of authority. Expulsion may also be ordered as a result of an enforceable criminal conviction for serious crimes and offences.

Articles 25, 27 and 28: Principle of equality of treatment in respect of remuneration and other conditions of work and employment; social security; and the right to receive urgent medical care

80. The Labour Code prohibits and punishes any discrimination between salaried workers, whether nationals or foreigners, in regard to wages, working conditions and social security. Everyone employed in Senegal, within the meaning of the Labour Code, is subject to the same regime. Migrants benefiting from a more favourable social security regime are not subject to the prevalent regime (Act No. 75-50 of 3 April 1975 on social insurance institutions and Decree No. 75-895 of 14 August 1975 on the organization of sickness insurance institutions). Act No. 73-37 of 31 July 1973 (Social Security Code) and Decree No. 75-455 of 24 April 1975 make it obligatory for all employers and workers to be affiliated to a sickness insurance scheme.

Articles 29, 30 and 31: Right of a child of a migrant worker to a name, to registration of birth and to a nationality; access to education on the basis of equality of treatment; respect for the cultural identity of migrant workers and members of their families

81. Under article 51 of the Family Code “all births must be declared to the civil registrar ...”. Thus, the child of a migrant worker born in Senegal has the right to registration in the civil register of the administrative district of birth.

82. In Senegal, as in other countries of the West Africa and Central Africa subregion, registration of children at birth has been given priority by the Government, so that children can enjoy this right in accordance with the provisions of the Convention on the Rights of the Child. In pursuance of this aim Senegal, together with its partners such as the United Nations Children’s Fund (UNICEF), Plan Sénégal and the United Nations Population Fund (UNFPA), is conducting a wide-ranging campaign for the registration of children at birth which was launched on 16 June 2003.

83. Through a variety of activities carried out on a nationwide scale, Senegal has achieved satisfactory results enabling it to increase the national coverage rate for the registration of children at birth from 60.9 per cent, as per the Multiple Indicator Cluster Survey (MICS) for 2000, to 78.5 per cent, according to the 2004 coverage survey. For the future, it is planned:

- To generalize the registration of children at birth;
- To carry out the activities included in the document entitled “Promotion of the registration of children at birth: priorities for 2005–2006”.

84. All children, both boys and girls, in any part of the national territory, have the right to go to school. Like children of Senegalese parents, children of migrant workers have access to basic education. The gross enrolment rate for elementary school is 82.5 per cent – 80.6 per cent for girls and 84.4 per cent for boys. Act No. 91-92 (Schooling Policy Act) was considerably strengthened by the amendment of December 2004 that made schooling between the ages of 6 and 16 “compulsory”. The communities are free to set up and organize religious education structures.

Articles 32 and 33: Right of migrant workers to transfer to the State of origin their earnings, savings and personal belongings; right to be informed of the rights arising from the Convention and to dissemination of information

85. Under Senegalese law, migrant workers are entitled to transfer their assets to their State, subject to payment of the relevant taxes. Transfers of funds must comply with the applicable customs declaration procedure, in particular for foreign currency. In principle, there are no restrictions on fund transfers in CFAF within the WAEMU area. As to informing migrants of their rights arising from the Convention, it should be mentioned that migrant communities established in Senegal are organized around associations recognized by the public authorities whose function is to uphold the interests of the members. Human rights structures and institutions, as well as NGOs, can be approached freely.

C. Implementation of Part IV of the Convention: Other rights of migrant workers and members of their families who are documented or in a regular situation

Article 37: Right to be informed before departure of the conditions of admission to the State of employment and of their remunerated activity

86. Before departure, a migrant worker can obtain information regarding administrative formalities and employment from the consular and diplomatic offices of Senegal accredited by his country. Once he has entered Senegalese territory, he can also obtain the necessary information from the competent services of the Ministry of the Interior (Travel Documents and Aliens Department) and the Ministry of Employment and Labour.

Articles 38 and 39: Right of migrant workers to be temporarily absent without effect upon authorization to stay or work; right to liberty of movement and to choose their residence in the territory of the State of employment

87. Under the legislation in force, expatriate workers can reside wherever they wish, depending on their means. They enjoy freedom of movement within the country. They may also, without effect on leave to remain, be temporarily absent from the country (for example, to spend their leave or holidays abroad).

Articles 40, 41, and 42: Right of migrant workers to form associations and trade unions; right to participate in public affairs of their State of origin and to vote and to be elected at elections of that State; procedures and institutions taking account of the needs of migrant workers and possible enjoyment of political rights in the State of employment

88. Senegalese workers abroad are fully fledged citizens, like persons living in the country. Provided that they meet the legal requirements, they may therefore form associations and trade unions, vote and apply for posts subject to competitive examination. Reciprocal treatment is granted to nationals of other countries established in Senegal, who exercise their right to vote in accordance with the legislation of their country of origin at the consular offices concerned.

89. However, the Senegalese Electoral Code does not yet give foreigners the right to vote, particularly in local elections.

90. Senegalese law allows migrants from a particular country of origin to form associations for the defence of their material and moral interests. Such associations are subject to the system of prior declaration and cannot demand rights which are within the competence of corporate movements. Under the Code of Civil and Commercial Obligations

(sect. 3), associations must be apolitical in character and refrain from dealing with religious matters, on pain of dissolution.

Articles 43, 54 and 55: Principle of equality of treatment with nationals of the State of employment in relation to the issues indicated; equality of treatment in respect of protection against dismissal, unemployment benefits, access to public work schemes intended to combat unemployment and access to alternative employment; equality of treatment in the exercise of a remunerated activity

91. All workers within the meaning of the Labour Code who exercise their professional activity in Senegal are treated equally in regard to wages, protection and access to available jobs.

Articles 44 and 50: Protection of the unity of the families of migrant workers and family reunification; consequences of death or dissolution of marriage

92. “The State and public bodies have a duty to ensure the physical and moral health of the family ...” (Constitution, art. 14). The Act on conditions of entry and stay of foreigners guarantees family reunification. The Senegalese Family Code provides for the right of succession and the divorce procedure and its consequences for the custody of children, as well as the disposal of community property. This Code also recognizes private international law enabling the courts to apply the national law of the spouses, as long as such legislation does not contravene the rules and principles of public order.

Articles 45 and 53: Equality of treatment for members of a migrant worker’s family in the aspects indicated and measures taken to guarantee the integration of children of migrant workers in the local school system; right freely to choose a remunerated activity for members of a migrant worker’s family

93. As mentioned earlier, Act No. 91-22 on national education policy, as amended, grants the right of access to basic education to all children living in Senegal. The country has implemented a series of policies and programmes to achieve the goal of education for all.

Articles 46, 47 and 48: Exemption from import and export duties and taxes in respect of personal effects; right to transfer earnings and savings from the State of employment to the State of origin or any other State; taxation conditions and measures to avoid double taxation

94. Migrant workers are subject to the same rules as nationals as regards taxes, export duties and transfers of funds. For imports, however, only immigrant workers originating in a country member of ECOWAS or WAEMU have the same treatment as nationals. The General Tax Code and bilateral agreements with certain countries provide for a single taxation regime. It is for the migrant worker to make the necessary declarations to the Department of Taxes and State Property.

Articles 51 and 52: Right to seek alternative employment in case of termination of the remunerated activity of migrant workers not permitted freely to choose their remunerated activity; conditions and restrictions applying to migrant workers who can freely choose their remunerated activity

95. Migrant workers are free to choose their remunerated activity. In the event of unemployment, they are at liberty to look for a job on the labour market. In practice, this category of migrants is most commonly redeployed in the informal sector.

Articles 49 and 56: Authorization of residence and authorization to engage in remunerated activity; general prohibition and conditions of expulsion

96. Under the legislation on the conditions of entry and stay of foreigners, a person who obtains a job in Senegal is entitled to a residence permit, provided that he meets the necessary administrative requirements. Loss of employment does not immediately place him in an irregular situation, but he must give proof of his means of support when renewing his residence permit.

97. As regards the conditions for expulsion of foreigners, expulsions are ordered by substantiated decision of the Ministry of the Interior. The person concerned is treated with humanity and respect for his dignity as a member of the human community. Unfortunately, the same cannot be expected as far as the expulsion of Senegalese in an irregular situation in many host countries is concerned.

D. Implementation of Part V of the Convention: Provisions applicable to particular categories of migrant workers and members of their families. Provisions or measures adopted with regard to particular categories of migrants indicated in articles 57 to 63 of the Convention, as appropriate

98. Seasonal and frontier workers enjoy the rights and guarantees specified in Part IV of the Convention. It is in fact often difficult to distinguish this category of workers from nationals, owing to the fact that the borders inherited from the colonial period do not take account of sociological realities. Substantial numbers of persons cross the borders in both directions.

99. Often, the same communities, united by family, cultural and religious ties, live on either side of the border – as, for example, in the Senegal river valley, where the black African community of Mauritania and the Fouta population (Saint-Louis and Matam regions) maintain close relations. This explains the massive presence in this area of Mauritanian refugees who have been able to integrate easily in Senegalese society. This part of Senegal uses a sizeable number of seasonal workers, particularly in agricultural activities (rice-growing, sugar-cane cultivation, etc.). In the eastern part of the country (Tambacounda region), there are also many seasonal and frontier workers employed in mining activities and the plantations. For this type of worker, the Labour Code and the Investment Code provide for the possibility of fixed-term contracts whose length varies according to the nature of the activity. These seasonal, frontier or itinerant workers are usually day workers.

100. This flexibility in conditions of recruitment and termination of employment is, however, regulated by the provisions of the Labour Code, and abuses and breaches can be punished by the Labour Tribunals. There is no system of positive discrimination favouring a particular category of nationals.

E. Implementation of Part VI of the Convention: Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families (arts. 65 and 66)

101. As regards the organization of State services, technical services exist to guarantee the promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families.

102. The Ministry of the Interior, which is in charge of the Aliens Police and immigration, has authority to issue residence and family reunion permits pursuant to the legislation in force. In addition, this ministerial department, in cooperation with the Kingdom of Spain, is conducting pilot programmes for the recruitment of Senegalese migrants for work in Spain under a bilateral convention.

103. Information on the conditions of economic migration into the country can be obtained from Senegal's various diplomatic and consular offices. The Ministry of Foreign Affairs has general competence for the negotiation of bilateral agreements on economic migration.

104. A number of Senegalese migrants have worked regularly in Equatorial Guinea and Gabon, for instance. Senegalese legislation does not impose any restrictions preventing a Senegalese worker from being employed in another State. The Ministry of Labour and Employment which implements State employment policy approves employment contracts for foreigners in the case of jobs open to immigration. The Ministry for Senegalese Abroad, for its part, makes an important contribution in training and informing Senegalese abroad.

Article 67: Measures regarding the orderly return of migrant workers and members of their families to the State of origin, their resettlement and their cultural reintegration

105. The State has an operational service specializing in the repatriation of Senegalese abroad in crisis situations, in the form of a committee for aid and assistance to refugees and repatriated persons attached to the Office of the President of the Republic and presided over by the President's Chief of Staff. On various occasions substantial means have been deployed for the repatriation of Senegalese.

106. Concerning the return and socio-economic reintegration of Senegalese migrant workers and members of their families, the Ministry for Senegalese Abroad, in accordance with its terms of reference, is responsible for creating favourable conditions for such return, in cooperation with all State departments and technical services. The establishment and strengthening of a Ministry for Senegalese Abroad is a very important step in the implementation of a policy for organizing expatriates so as to optimize their contribution to national development and ensure their protection and management within the framework of their orderly return and successful reintegration.

Article 68: Measures to prevent and eliminate illegal or clandestine movements and employment of migrant workers in an irregular situation

107. The machinery for controlling and containing clandestine migration has recently been strengthened following the recrudescence of clandestine emigration. Under partnership agreements with the Government of Spain and the International Organization for Migration, the capacity of the security forces responsible for frontier control has been reinforced, particularly in respect of training and material and technical means for surveillance of maritime borders. Regarding legislation, the 2005 Act on combating trafficking in persons and related practices made clandestine migration a criminal offence.

108. In principle, the employment of migrants in an irregular situation is punished by the provisions of the Labour Code. The labour inspectorate coming under the Ministry of Labour and Employment has powers of supervision and investigation. However, the shortage of staff and the lack of resources are major handicaps.

Article 69: Measures taken to ensure that the irregular situation of migrant workers does not persist in the territory of the State party and circumstances that must be taken into account in regularization procedures

109. Normally, under the legislation in force, it is for migrant workers in an irregular situation to contact the services of the Department of Aliens Police and Travel Documents to obtain information on how to regularize their situation. The police and civil authorities help immigrant workers in an irregular situation in Senegal to regularize their status by providing them with useful information for complying with all administrative formalities. While the request is being processed, a foreigner in an irregular situation is given a deposit receipt which can be regarded as a temporary residence permit.

Article 70: Measures taken to ensure that the living conditions of migrant workers and members of their families in a regular situation are in keeping with the standards of fitness, safety, health and principles of human dignity

110. Article L106 of the Labour Code provides: “In the event that the worker has been displaced from his habitual residence and brought to the place of employment by the employer for the performance of a labour contract, the employer is required to provide the worker and his family with adequate housing.”

Article 71: Repatriation of the bodies of deceased migrant workers or members of their families and compensation matters relating to death

111. Under article L161 of the Labour Code, “In the event of the death at the place of employment of a displaced worker or member of his family whose travel was paid by the employer, the employer shall be responsible for repatriating the body of the deceased to the place of habitual residence.”

112. Senegal solemnly renews its commitment to pursue the promotion and protection of the human rights of all migrant workers and members of their families at the national, regional and international levels.
