



## **SENEGAL**

SUBMISSION TO THE UN COMMITTEE ON THE PROTECTION OF THE RIGHTS  
OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

36<sup>th</sup> SESSION JUNE 2024

ISSUES RELATED TO IMMIGRATION DETENTION

**Submitted in June 2024**

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## **ABOUT THE GLOBAL DETENTION PROJECT**

The Global Detention Project (GDP) is a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status. Our mission is:

- To promote the human rights of detained migrants, refugees, and asylum seekers;
- To ensure transparency in the treatment of immigration detainees;
- To reinforce advocacy aimed at reforming detention systems;
- To nurture policy-relevant scholarship on the causes and consequences of migration control policies.

# Senegal

## Joint Submission to the UN Committee on the Protection of the Rights of All Migrant Workers

### 38<sup>th</sup> Session, June 2024 - State Report

#### Issues Related to Immigration Detention

*Submitted in June 2024*

The Global Detention Project (GDP) welcomes the opportunity to provide information relevant to the review of the Fourth Periodic Report of Senegal during the 38<sup>th</sup> Session of the Committee on Migrant Workers. This submission, which was delivered orally to a member of the Committee on Migrant Workers in advance of its 38<sup>th</sup> Session, focuses on the state party's responses to the CMW's immigration detention-related *list of issues prior to reporting* (LOIPR), as well as recent developments concerning its involvement in maritime interdiction activities and joint control initiatives with European enforcement bodies. This submission's recommendations are made in light of the CMW's authoritative General Comment No. 5 on migrants' rights to liberty and freedom from arbitrary detention.<sup>1</sup>

#### I. CMW Detention-related Recommendations in LOIPR (dated 20 April 2022), Government of Senegal Responses in its Fourth Periodic Report (dated 19 July 2023), and Recommendations by Global Detention Project

**CMW LOIPR Paragraph 7.b.:** The CMW requested information about “the establishment of complaint mechanisms and legal support for migrants” including those in detention as well as “training programmes on the human rights of migrant workers and members of their families, including capacity-building programmes for State agents.”

**Senegal response:** The state party only noted that the Senegalese Human Rights Committee “has set up a department to receive complaints from victims of human rights violation.” However, it *failed* to provide any details about how detained migrants may safely access those mechanisms, and it reported that it did not have a budget for “training and capacity-building programmes on the human rights of migrant workers.”

**Submission recommendations:** We urge the Committee to clarify with the state party that having a functioning complaints system and properly trained staff are prerequisites of any immigration detention system. If it cannot afford to have a properly functioning system that ensures the adequate treatment of detainees, it should be urged to stop detaining migrants, refugees, and asylum seekers, and to establish more cost-affordable social assistance programs that provide for the well-being of these people outside detention centres.

**CMW LOIPR Paragraph 16:** The Committee asked for details about any possible legislative proposals to decriminalize irregular stay.

**Senegal response:** The state party said there had been no legal reforms, although it stated that it understands that such criminalisation “does not comply” with Senegal's “international and subregional commitments” and thus “there are plans to review” this law.

**Submission recommendations:** Decriminalising irregular stay in Senegal has been a long-standing item on the agenda of human rights monitoring bodies. In 2019, for instance, [UN Human Rights Committee](#) highlighted the criminalisation of irregular migration under Article 11 of the Act on conditions of admission, stay of foreigners in Senegal, in addition to numerous other problems with the country's immigration detention operations and conditions of detention. We urge the Committee on Migrant Workers to press the state party to provide more specificity about when it intends to complete the review of its law and implement reforms to ensure that irregular entrance or stay are no longer subject to a criminal procedure

**CMW LOIPR Paragraph 17:** The Committee asked Senegal to provide data and information on numbers and demographics of detainees, average length of detention measures, grounds for detention, methods for informing detainees of their rights, access to consulates and translators, due process guarantees, amongst other fundamental rights.

**Senegal response:** The state party *failed* to address most of these issues satisfactorily. It said that it maintained no data on detainees or detention measures, and that there was “no information channel that is specifically used to inform detained migrant workers of their rights.” It said that “consular authorities are informed of the reasons for the arrest of their nationals and can comment on their detention conditions,” and that they could serve as translators for their nationals. It said that all detainees had a right to lawyers but did not indicate the procedure if they could not afford a lawyer. It also said that access to consular representatives somehow ensures “that the rights of migrants in detention are strictly respected.”

**Submission recommendations:** We urge the Committee to press the state party to clearly address the entirety of the requests made in LOIPR Paragraph 17. The utter lack of transparency, failure to provide reasonable guarantees for detainees, and inability to establish procedures for ensuring that detainees are informed of their rights undermine the credibility of Senegal's immigration enforcement system. The state party should be encouraged to stop detaining migrants, refugees, and asylum seekers, and establish social assistance programs that provide for the well being of these people outside detention centres.

**CMW LOIPR Paragraph 18.** The Committee requested details how administrative detention centres operate, in particular with respect to the separation of genders and provisions for pregnant and breastfeeding migrant workers.

**Senegal response:** “Senegal has no administrative detention facilities. When migrants are taken in for questioning, the principle of separation of the sexes is routinely applied, so that men and women are separated. Pregnant or breastfeeding women are cared for by the health services to ensure that their social rights are respected.”

**Submission recommendations:** Senegal's admission that it does not have detention centres that are dedicated to managing migrants in administrative detention, a clear violation of the Convention, is another indication that the state party is unable to abide by basic norms in its immigration detention procedures and should cease all such operations. We urge the Committee to recommend that it cease detaining migrants until it can have a system in place that abides by basic human rights norms.

**CMW LOIPR Paragraph 19:** The Committee asked for details about Senegal's efforts to adhere to the best interests principle and not detain children or their families.

**Senegal response:** The state party claimed that it does not detain children and that it has in place programs to assist children and families in need. However, there are numerous reports that these social welfare institutions are not adequately set up to house children. Importantly, too, Senegal's failure to collect data on who is detained means that it cannot provide assurances about whether children are properly identified and channelled into other systems. apprehended at the border.

**Submission recommendations:** We urge the Committee to press the state party for additional details on how children are identified during screening procedures, statistics on the numbers of children taken in to custody, and date on the resolution of all migrant children custodial cases.

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

**Senegal response:** The state party only provided partial statistics for 2022, covering the removal of people from Niger, who Senegal claims numbered “over 1,000.”

**Submission recommendations:** We urge the Committee to press the state party to document each deportation and be able to provide concrete statistics covering all nationalities removed for immigration reasons. In particular the state party must be encouraged to provide data on removals of Gambians and Malians, who also frequently use the route through Senegal to Spain’s Canary Islands.

**CMW LOIPR Paragraph 24:** The Committee requested details about Senegal’s efforts to establish appropriate institutions for migration-related detention and end use of prison institutions. prosecutions of officials who have harmed or abused detainees.

**Senegal response:** The state party said they had no intention of building immigration detention centres, stating that “there are no plans to create establishments specifically intended for the detention of migrant workers in conflict with the law. Migrants subject to refoulement or expulsion measures are often held on police or gendarmerie premises pending the expulsion proceedings.”

**Submission recommendations:** The Committee should underscore this clear violation of the Convention and urge Senegal to cease all detention measures based solely on status-related infractions. It should further explain to the state party that detention on these grounds is patently disproportionate if the country cannot abide by basic norms in its detention operations, thus making these detention operations arbitrary, as clarified by the Working Group on Arbitrary Detention in its Revised Deliberation No 5 on deprivation of liberty of migrants.

## II. Recent Developments: Impact of Collaboration with European Union and Frontex

The West African migration route leading through Senegal to Spain’s Canary Islands is an import pathway for migrants and refugees from across Africa, whose importance periodically grows when other routes are shutdown. The route saw a major spike in traffic in 2023, increasing by 161 percent compared to 2022, according to the European Union border agency, Frontex.

As most of these crossings originate in Senegal and involve mainly young migrants, many under the age of 18, the country’s efforts to shut down this route have been the focus of much attention, domestically and internationally. The country is under particular pressure from the EU to stop transit migrants crossing Senegal. Its recent efforts to “fight clandestine emigration” have resulted in heightened border controls and increased criticism about the treatment of foreigners in the country.

In July 2023, Senegal introduced a migration action plan to prevent migrants from leaving the country by tightening border policing and tackling smuggling networks. Europe’s Frontex, which has “liaison officers” deployed in Senegal as well as in neighbouring Mauritania and the Gambia, has long proposed boosting its role in Senegal in support of interdiction efforts and other migration control programs. Observers have also pointed to the growing use of EU-funded invasive surveillance technologies, which may violate migrants’ fundamental human rights, while facilitating arbitrary detention and deportation operations.

In addition to the rise in arrests in Senegal, the increasing influx of migrants reaching the Canary Islands exposes more individuals to the risk of detention. Reportedly, a Senegalese minor accused of piloting a migrant boat, thus facilitating irregular immigration, has been held in an adult prison in Gran Canaria since December 2023. Given the uncertainty about the exact age of the possible minor, the UN has requested that Spain ensure his transfer to a juvenile detention centre instead, to avoid breaching his rights under the International Convention on the Rights of the Child.

Concerns have also been raised about the impact that the use of invasive surveillance technology—such as biometric fingerprinting, facial recognition, drones and much more—can have on Senega well beyond its migration management purposes. [Reportedly](#), a substantial lack of human rights impact assessments and safeguards to ensure that the technology and policing strategies aren't used improperly, risks supplying authoritarian governments with repressive tools. Amnesty International [noted](#) that “if the police have this technology at their disposal to track migrants, there is nothing to ensure it won't be used to target others, such as civil society or political actors.” [Reports](#) confirm that EU-funded police special units, who were trained to tackle cross-border crimes, have been used instead to violently repress pro-democracy protests and peaceful demonstrations in Senegal.

**Submission recommendations:** We urge the Committee to press Senegal to provide details on all of its joint interactions with Frontex and the European Union aimed at blocking the migration through the country and assisting in the interdiction of people at sea. The state party should be encouraged not to participate in any migration management schemes that violate human rights and that it should resist EU pressure to serve as Europe's migrant and refugee gatekeeper. It should be urged to stop detaining migrants, refugees, and asylum seekers, and to establish more cost-affordable social assistance programs that provide for the well-being of these people outside detention centres.

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<sup>1</sup> Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, “General Comment No. 5 (2021) on Migrants' Rights to Liberty and Freedom from Arbitrary Detention,” CMW/C/GC/5, 23 September 2021, <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-5-2021-migrants-rights-liberty>