



**International Convention for
the Protection of All Persons
from Enforced Disappearance**

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Committee on Enforced Disappearances

**Consideration of reports of States parties under
article 29, paragraph 1, of the Convention**

Reports of States parties due in 2012

Senegal*

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I. Introduction

1. The application of habeas corpus, which guarantees the protection of personal integrity and security of person, is enshrined both in the Constitution and in the Code of Criminal Procedure in Senegal.
2. Indeed, article 7 of the Constitution guarantees that everyone has the right to life, liberty and security, to the free development of his or her personality and to physical integrity.
3. Article 9 also enshrines the presumption of innocence and the principle of the legality of offences and the right to a defence.
4. These constitutional guarantees are protected by the judiciary (Constitution, arts. 88 and 91). Thus, deprivation of liberty, whether ordered by a criminal investigation officer in respect of police custody or decided by a competent judge in the case of detention, is strictly regulated.
5. Habeas corpus is a rule of law which guarantees that a person who has been arrested must be brought promptly before a judge who rules on the validity of his or her arrest.
6. The rule of habeas corpus is based on the premise that, even in detention, a person is not without rights. According to this rule, a prisoner must be released if he or she has been detained without a valid reason in the eyes of the judiciary, which must be independent of the legislature and the executive.
7. In accordance with this principle, any person who has been arrested has the right to know the reason for the arrest and the offence of which he or she is accused and must then be brought promptly before a judge.
8. Accordingly, this rule is present in the country's criminal legislation and the remedy of habeas corpus exists within it.
9. Under article 91 of the Constitution, the judiciary is the guardian of rights and freedoms and the principle of its independence is set out in article 88 of the same basic law.
10. Judicial power is exercised by the Constitutional Council, the Supreme Court, the Court of Auditors and the courts and tribunals. These two provisions guarantee the right of every individual to have his or her case heard.
11. The provisions also encompass the Criminal Code and the Code of Criminal Procedure.
12. While the first of these guarantees the establishment in law of offences and sentences, the second specifies in its different provisions the ways and means that Senegalese citizens must use in applying to the public justice service in the event that their rights are violated. If the judgement does not satisfy the victim, he or she may appeal to a higher jurisdiction. The plaintiff may, if necessary, resort to the court of cassation.
13. The security of the individual in the framework of a judicial procedure is a constitutional right, and it is the Constitution itself (art. 9) that makes any infringement of freedoms or intentional restrictions on enjoyment of the right to freedom a serious crime which is severely punished by law.
14. In the application of these constitutional provisions, a major feature of criminal procedure in Senegal is that any infringement of or hindrance to the enjoyment of a

freedom may be ordered only by an officer authorized by law, notably a judge or a criminal investigation officer.

15. Thus, strict measures were provided for under the Code of Criminal Procedure from the very beginning, with police custody ordered by a criminal investigation officer and detention falling under the competence of a magistrate. Disciplinary and criminal sanctions apply where these provisions are violated.

16. The criminal investigation officer must notify the person who has been arrested of the reasons for his or her detention (Code of Criminal Procedure, arts. 55, 55 bis, 55 ter, 56, 57, 58 and 59).

17. The Convention for the Protection of All Persons from Enforced Disappearance, adopted by the General Assembly of the United Nations on 20 December 2006 and opened for signature in Paris on 6 February 2007, protects the right of all persons not to be subjected to enforced disappearance. It requires States parties to adopt both preventive and repressive measures to ensure that it is respected.

18. Senegal signed the Convention on 6 February 2007 and ratified it on 24 September 2008 under Act No. 2008-61.

19. The Convention, which entered into force in Senegal on 11 December 2010, entails two main obligations.

20. Firstly, the provisions of the Convention must be implemented in domestic law. The country's laws have been analysed to that end. Most are already in conformity with the majority of the requirements under the Convention. Nevertheless, complete conformity will require some amendments to be made to the Criminal Code to:

- Classify enforced disappearance as an independent criminal offence which excludes any cause for justification;
- Set penalties; and
- Determine aggravating and mitigating circumstances relating to this crime.

21. A bill is currently being drafted. The new Criminal Code, which will be voted on in the near future, contains a section III entitled "Enforced disappearances". And in article 153, which deals with the matter, the law provides that:

An enforced disappearance is constituted by the arrest, detention, kidnapping or any other form of deprivation of liberty by officers of the State or by persons or groups of persons who act with the authorization, support or acquiescence of the State, followed by a denial of any knowledge of the deprivation of liberty or concealment of the fate of the disappeared person or of the place they may be found, thus removing them from the protection of the law.

Any person who orders, commands or participates in an enforced disappearance is liable to a penalty of imprisonment or criminal detention of between 10 and 20 years.

The same penalties shall apply to a superior who:

- Knew that subordinates under his or her effective authority and control were committing or about to commit a crime of enforced disappearance;
- Consciously disregarded information which clearly indicated this was the case;
- Exercised effective responsibility for and control over activities which were concerned with the crime of enforced disappearance;

- Failed to take all necessary and reasonable measures within his or her power to prevent or repress the commission of an enforced disappearance or to submit the matter to the competent authorities for investigation and prosecution.

No order or instruction from any public authority, civilian, military or other, may be invoked to justify an offence of enforced disappearance.

22. Secondly, in accordance with article 29, paragraph 1, of the Convention, Senegal is required to submit to the Committee on Enforced Disappearances a report on the measures taken to give effect to its obligations under the Convention. In compliance with this obligation, Senegal is submitting the present report which, together with the core document, adheres in both its presentation and its content to the guidelines adopted by the Committee. It is the result of a collaboration between the Ministry of Justice, the Senegalese Human Rights Committee, the National Advisory Council on Human Rights and civil society organizations. The report provides information on the current state of law in Senegal which, as previously indicated, already conforms largely to the Convention.

23. It is noted that, once it has considered the report, the Committee may issue comments and observations in accordance with article 29, paragraph 3, and request additional information in accordance with the provisions of article 29, paragraph 4.

24. Senegal is aware of the need to amend its legislation and undertakes to keep the Committee informed over the coming months of progress in drafting a bill to ensure the full implementation of the provisions of the Convention. Indeed, the Criminal Code and the Code of Criminal Procedure will undergo significant amendments this year and the bills relating to them have already been submitted to the National Assembly.

II. Legal framework

A. Constitutional, criminal and administrative provisions regarding the prohibition of enforced disappearance

25. Under current law in Senegal, enforced disappearance is a crime against humanity and a specific criminal offence (see below, under comments in respect of article 5 of the Convention). Enforced disappearance, as defined in article 2 of the Convention, is not however treated as a separate criminal offence. Nevertheless, such an act would in any event be illegal as it would be in breach of fundamental rights not only under international laws directly applicable under the laws of Senegal (notably the right to liberty and security of person under article 9 of the International Covenant on Civil and Political Rights and articles 4, 5 and 6 of the African Charter on Human and Peoples' Rights), but also under existing national provisions, in the Constitution (arts. 7 and 8) and in criminal law (Act No. 2007-02 of 12 February 2007 amending the Criminal Code, article 2 of which incorporates into the laws of Senegal the crime of genocide, war crimes and crimes against humanity, reproducing in their entirety the definitions and classifications of offences set out in the Rome Statute of the International Criminal Court, and Act No. 2007-05 of 12 February 2007 amending the Code of Criminal Procedure, introducing into the body of laws the principles of universal jurisdiction and non-applicability of a statute of limitations for the crime of genocide, war crimes and crimes against humanity).

B. International treaties dealing with enforced disappearance to which Senegal is a party

26. Senegal has ratified and implemented in domestic legislation the Rome Statute of the International Criminal Court, which includes within the jurisdiction of the Court crimes of enforced disappearance when they constitute a crime against humanity.

27. It should be emphasized that Senegal is a party to the core international human rights instruments (listed in the common core document) whose provisions would be violated by an act of enforced disappearance.

C. Status of the Convention in the domestic legal order, its direct applicability by the courts or administrative authorities

28. The details relating to the place occupied by international instruments in the hierarchy of norms and the direct applicability of their provisions are to be found in the common core document. It should simply be recalled that the Conventions take precedence over the laws of Senegal and are applied directly in the courts.

D. How domestic laws ensure the non-derogability of the prohibition of enforced disappearance

29. Please see remarks made in respect of article 1 of the Convention.

E. Competent authorities

30. The competent authorities for each element addressed in the Convention will be identified in the specific comments made below in respect of each article of the Convention.

F. Examples of case law or administrative measures in which the provisions of the Convention have been enforced or where violations of the Convention were identified and administrative measures that violated the Convention

31. No court decision relating to enforced disappearance has been reported and no administrative measure of the type referred to has been reported.

32. The legislative and regulatory provisions that implement the Convention will be detailed specifically in the comments made below in respect of each article of the Convention.

G. Statistical data on cases of enforced disappearance

33. The State does not have statistical data of this kind.

III. Specific comments in relation to each substantive article of the Convention

Article 1

A. Legal and administrative measures to guarantee the non-derogability of the right not to be subjected to enforced disappearance

34. Article 52 of the Constitution provides that:

“Where institutions of the Republic, the independence of the Nation, territorial integrity or the execution of international commitments are subject to serious or immediate threat and the normal operations of public authorities or institutions are suspended, the President of the Republic is accorded emergency powers.

He or she may, after informing the Nation in a message, take any measures that will establish the routine operation of public authorities and institutions and contribute to safeguarding the Nation.

He or she may not carry out a revision of the Constitution under the emergency powers.

The National Assembly meets as of right.

It must, within 15 days of their being issued, ratify any legislative measures put in place by the President. The National Assembly may reject or amend a law when voting on ratification. These measures shall be rendered null and void if the ratifying bill is not submitted to the National Assembly before the specified deadline.

It cannot be dissolved while emergency powers are in force. Where these are exercised after the dissolution of the National Assembly, the date of elections set out in the decree on dissolution may not be delayed, except in cases of force majeure as determined by the constitutional council.

35. For its part, article 69 of the Constitution provides that:

A state of siege or a state of emergency may be decreed by the President of the Republic. The National Assembly shall meet as of right, if it is not in session. The decree proclaiming the state of emergency ceases to have legal effect after 12 days unless the National Assembly has, at the request of the President, authorized its extension. The ways in which the state of siege or state of emergency are applied are determined by law.

36. The laws of Senegal do not permit any derogation of the rights and fundamental freedoms guaranteed by the Constitution — which would be violated by an act of enforced disappearance — under a public emergency of any kind.

37. In addition, international provisions concerning acts of enforced disappearance that are directly applicable under the laws of Senegal cannot be made subject to derogation except to a very limited extent and in accordance with substantive and procedural conditions (see the International Covenant on Civil and Political Rights, art. 4). Senegal has never availed itself of this procedure. If it were to, the legislator would have to set out the rules for derogation, which would have to be notified to the Secretary-General of the United Nations. The necessity for and proportionality of the derogations adopted could thus be subject to international oversight.

38. It should also be specified that, in the event of armed conflict, international humanitarian law would be applicable. This prohibits enforced disappearance, lays

down very detailed rules regarding detention and imposes several general measures to ensure the traceability of individuals, and Senegal is a party to all of the Geneva Conventions.

B. Legislation and practices concerning terrorism, emergency situations, national security or other grounds that have had an impact on the effective implementation of the prohibition of enforced disappearance

39. No legislation or specific practice jeopardizes the effective application of the prohibition on enforced disappearance.

40. Senegal has put in place a system of counter-terrorism which is based on legal and administrative frameworks and provisions intended to improve international cooperation.

41. It has introduced counter-terrorism provisions into its legislation: Act No. 2007-01 of 12 February 2007 classifies acts of terrorism as criminal offences and Act No. 2007-04 of 12 February 2007 amends the Code of Criminal Procedure with respect to investigation, prosecution and sentencing in the context of combating acts of terrorism.

42. Article 1 of the former introduces into the Criminal Code, after article 279, a section VII of book 3, title I, chapter IV, entitled “Acts of terrorism”, which comprises the following provisions:

Article 279-1: The following offences constitute acts of terrorism where they have been committed intentionally in connection with an individual or collective endeavour, the aim of which is to disrupt public order or the normal operation of national or international institutions, by intimidation or terror:

1. The attacks and plots referred to in articles 72 to 76 of the Criminal Code;
 2. Crimes committed by persons participating in an insurrectional movement, as referred to in articles 85 to 87 of the Code;
 3. Violence or the use of force against persons and destruction or damage committed during gatherings, as set out under article 98 of the Code;
 4. Abduction and illegal confinement, as set out under articles 334 to 337 of the Code;
 5. Destruction, deliberate defacement and damage, as set out under articles 406 to 409 of the Code;
 6. Intentional damage to property belonging to the State or of public interest, as set out under article 225 of the Code;
 7. Conspiracy, as set out under articles 238 to 240 of the Code;
 8. Violence to life, as set out under articles 280, 281, 284, 285 and 286 of the Code;
 9. Threats, as set out under articles 290 to 293 of the Code;
 10. Assault and battery, as set out under articles 294, 295, 296, 297, 297 bis and 298 of the Code;
 11. The manufacture or possession of arms prohibited under article 302 of the Criminal Code and under Act No. 66-03 of 18 January 1966;
 12. Theft and extortion, as set out under articles 364 and 372 of the Code.
43. Article 279-2 of the Criminal Code concerns bioterrorism:

An act that, when it is committed intentionally, in connection with an individual or group endeavour, with the aim of seriously disrupting public order or the normal operation of institutions by the use of intimidation or terror, through the introduction into the atmosphere, on the ground, under the ground or in water of a substance of a nature that will endanger the health of human beings or animals or the natural environment, constitutes an act of terrorism.

Article 279-3: An act that directly or indirectly finances terrorist activity by supplying, collecting or managing funds, securities or assets of any kind or by giving advice to that end, with the intention that the funds, securities or assets should be used, in whole or in part, with a view to committing an act of terrorism, or with knowledge of such intended use, constitutes an act of terrorism.

Article 279-4: Any person guilty of an act of terrorism as defined under articles 279-1, 279-2 and 279-3 of the Code is subject to a life sentence of forced labour. If the person convicted is responsible for the leadership or control of a legal entity and acts in that capacity, the licence, authorization or permit of the entity is definitively withdrawn.

Article 279-5: A sentence of imprisonment of between 1 and 5 years and a fine of between 100,000 and 1 million CFA francs will be imposed on any person who has, through the means set out under article 284 of the Criminal Code, defended the crimes set out under articles 279-1, 279-2 and 279-3 of the Code.

44. The sentence set out under article 279-4, paragraph 2, will be handed down to any legal entity whose director or manager is guilty of the acts set out in the preceding paragraph.

Article 2 of the Act provides that “Forced labour is substituted in all provisions issued prior to Act No. 2004-38 which prescribe the death penalty.”

45. Act No. 2007-02 of 12 February 2007 also incorporated into our Criminal Code articles 431-1, 431-2, 431-3, 431-4 and 431-5, which deal with the crime of genocide, crimes against humanity, war crimes and other crimes relating to international law, as set out in the Hague Conventions of 1954, 1976 and 1980, which were not specified in our criminal laws.

46. Persons suspected of having committed terrorist offences are dealt with under common law and are subject to all relevant procedural rules. Such persons benefit from the same rights as any other person charged with an offence during police interrogations and hearings, including in respect of the possibility of lodging appeals against judgements made against them. However, with regard to terrorist offences, certain specific methods of investigation that are appropriate for serious crimes are applicable to the acts referred to in article 279-1 of the Criminal Code. None of those methods may lead to or constitute an act of enforced disappearance.

47. Article 677-24 of the Code of Criminal Procedure stipulates in this regard that “Crimes committed under book 3, title I, chapter IV, section 7, of the Criminal Code will be investigated, prosecuted and judged according to the rules of the Code of Criminal Procedure and subject to the provisions set out hereafter.”

48. Article 677-25 of the Code of Criminal Procedure:

Public prosecution concerning crimes defined under the section mentioned in the foregoing article is subject to a statute of limitations of 30 years. Penalties imposed for the crimes indicated above are subject to a statute of limitations of 40 years from the date on which the judgement is finalized.

49. Article 677-26 of the Code of Criminal Procedure:

Visits and searches may be carried out at any time of day or night on the written authorization of the presiding judge or the Public Prosecutor, even without the consent of the person in whose home they are taking place:

1. Where a crime has just taken place;
2. Where there is a serious risk that proof or evidence may disappear;
3. Where there is a suspicion that one or more persons in the place where the visit or search is to take place is preparing to commit an act of terrorism.

When the operation is carried out within the jurisdiction of a regional tribunal other than that of Dakar, the competent judge must immediately inform the Public Prosecutor at Dakar. The latter may appoint a senior law enforcement officer specialized in counter-terrorism to the case.

50. Article 677-27 of the Code of Criminal Procedure states that “The provisions of article 55 of the Code relating to detention in police custody in connection with crimes and offences against the security of the State are applicable with respect to combating acts of terrorism.” That is to say that the length of the detention may be doubled.

51. We may also add to this list Act No. 2005-02 of 25 April 2005 relating to human trafficking and associated practices and to the protection of victims who denounce acts of human trafficking and exploitation that amounts to slavery, including the harvesting of human organs.

Article 2

Definition of enforced disappearance in domestic law or, in its absence, provisions that are invoked

52. Under current Senegalese law, enforced disappearance is treated as a separate offence when it constitutes a crime against humanity. Reference is made in this connection to the comments made in respect of article 5 of the Convention.

53. However, in the current state of domestic law, enforced disappearance does not constitute a separate offence under ordinary law.

54. Nevertheless, it may be composed of acts already covered by the Criminal Code, such as torture, violence or assault against a person and destruction or damage during assemblies (art. 98), homicide and attempted homicide (arts. 280, 281, 284, 285 and 286), attacks and conspiracies against the State (arts. 72-76 and 84), abduction and illegal confinement (arts. 334-337), intentional assault and battery (arts. 294-297 et seq.), infringements on liberty, including unlawful or arbitrary detention committed by public officials, and inhuman treatment.

55. Upon reviewing the Criminal Code, it is clear that, even without the formal classification of enforced disappearance as a crime, other texts can be invoked to punish the perpetrators of its component acts.

56. Act No. 96-15 of 28 August 1996, supplementing the provisions of the Criminal Code with the addition of article 295-1, closely follows the wording of the definition of torture set out in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

57. Article 295-1 reads:

Injuries, blows, physical or mental violence or other forms of assault intentionally inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity

either for the purpose of obtaining information or a confession, imposing punishment by way of a reprisal or making threats or for any discriminatory reason of any kind shall be considered as torture. An attempt to commit such acts carries the same penalties as the offence itself. Persons described in paragraph 1 who are found guilty of torture or attempted torture shall be liable to 5 to 10 years' imprisonment and a fine of 100,000 to 500,000 CFA francs. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for torture. An order from a superior officer or a public authority may not be invoked as a justification for torture.

58. Article 166 of the Criminal Code stipulates that:

Any civil servant or public official, administrator, government agent or police official, judicial marshal or police commandant or deputy commandant who, in the exercise of his or her functions, has, without legitimate reason, used or ordered the use of violence against other persons, shall be punished in a manner commensurate with the nature and extent of the violence used and shall be subject to the penalty stipulated in article 178.

59. Article 106 of the Criminal Code deals with arbitrary or prejudicial acts committed by State officials, as follows:

Any civil servant or agent, official or member of the Government who orders or commits an arbitrary act or an act which violates a person's liberty, the civil rights of one or more citizens or the Constitution shall be penalized by the loss of his or her civil rights. If, however, the person can prove that he or she acted on the orders of a superior for purposes within the remit of the latter, in respect of which the principle of due obedience applied, he or she shall be exempted from punishment, which in this case shall be applied solely to the superior who gave the order.

60. Article 110 of the Criminal Code sets forth penalties for failure by public officials to report unlawful or arbitrary detentions. It reads:

Public officials charged with administrative and investigative police functions who refuse or neglect to comply with a legal request to attest to the illegality or arbitrariness of a person's detention, whether in a facility designed for the custody of detainees or elsewhere, and who fail to report the matter to a higher authority, shall be liable to 5 to 10 years' imprisonment and to the payment of damages, to be calculated in keeping with article 108.

61. Article 47 of the Criminal Code provides for the punishment of accessories to offences against persons, as follows:

Persons who, while aware of the criminal conduct of offenders engaging in robbery or violence in violation of the security of the State or in breach of the peace or against individuals or property, habitually provide such persons with accommodation, shelter or a meeting place shall be punished as accessories. Persons who, in cases other than those provided for above, intentionally harbour a person they know to have committed an offence or to be sought for this reason by police or who shield or attempt to shield an offender from arrest or pursuit or who help an offender to hide or escape shall be liable to between 2 months' and 3 years' imprisonment or a fine of 25,000 to 1 million CFA francs, or both, without prejudice to the application of harsher penalties, where appropriate. Any person related to the offender by blood or marriage, up to the fourth degree inclusive, shall be exempt from the preceding provisions.

62. Article 48 of the Criminal Code addresses the failure to report offences, as follows:

Without prejudice to the application of articles 88 and 89 of the present Code, persons who, being aware that an offence has been attempted or committed, fail to promptly notify the administrative or investigative authorities while it is still possible to prevent or mitigate the effects of the offence or where there is reason to believe that one or more of the perpetrators may commit further offences that could be prevented by reporting the offence, shall be liable to between 2 months' and 3 years' imprisonment or a fine of 25,000 to 1 million CFA francs, or both. Any person related to the offender by blood or marriage, up to the fourth degree inclusive, shall be exempt from the provisions of this article, except in the case of offences against children under 15 years of age.

63. Article 49 of the Criminal Code is intended to prevent offences, including those that cause bodily harm, by imposing penalties for failure to prevent the commission of an offence and failure to come to the aid of a person in danger, as follows:

Without prejudice to the application, where appropriate, of harsher penalties provided for in the present Code and special laws, persons who could, by taking immediate action and at no risk to themselves or others, prevent the commission of an offence or bodily injury and who intentionally refrain from doing so shall be liable to between 3 months' and 5 years' imprisonment or a fine of 25,000 to 1 million CFA francs or both. Persons who intentionally refrain from providing a person in danger the assistance which, at no risk to themselves or others, they are in a position to provide, either directly or by calling for help, shall be liable to the same penalties.

64. The Criminal Code contains other dissuasive measures providing for severe penalties for intentional bodily harm, especially against vulnerable persons.

65. Prior to the ratification of the Convention against Torture, book 1, title 2, of the Criminal Code of 21 June 1965, on offences against the person, stipulated that "Persons who intentionally cause injury, hit or commit any other violence or battery that results in illness or total incapacity to work of more than 20 days shall be liable to 5 years' imprisonment and a fine of 20,000 to 250,000 CFA francs (art. 194, para. 1)." The following paragraph stated that "When the violence mentioned above results in death, mutilation, amputation or loss of the use of a limb, blindness, loss of an eye or other permanent infirmities, the perpetrator shall be liable to between 5 and 10 years' imprisonment and a fine of 20,000 to 200,000 CFA francs."

66. Articles 106, 296, 297, 298 and 299 of the Criminal Code provide for penalties for the same actions when they result in a lesser incapacity than that defined in article 194, paragraph 1, or when they are committed against a parent or grandparent, a child or grandchild or a minor under the age of 15.

67. In order to bring together into a single unit all the material components of the offence of enforced disappearance, since related offences do not, or not fully, contain them all and taking into account the seriousness of the phenomenon of enforced disappearance, it is planned to amend Senegalese law so as to make enforced disappearance a separate offence.

68. Pending the entry into force of this legislative amendment, an act of enforced disappearance may be prosecuted on the basis of the aforementioned provisions.

Article 3

How the State prohibits and prosecutes the conduct defined in article 2 of the Convention when it is committed by non-State entities

69. The acts defined in article 2 of the Convention, if committed by persons or groups acting without the authorization, support or acquiescence of the State, may, depending on the case, constitute acts of torture, inhuman treatment, abduction or concealment of minors or other vulnerable persons. They may then be prosecuted under the Criminal Code. In any event, acts of enforced disappearance are violations of individual liberty that are classified as crimes under the Criminal Code, as described above.

Article 4

70. See comments made in respect of articles 2 and 3 of the Convention.

71. Senegal will keep the Committee informed of the planned amendment to the Criminal Code and of the stages in the procedure for its adoption.

Article 5

A. Definition of enforced disappearance as a crime against humanity

72. Article 431-2 of the Criminal Code stipulates that:

Any of the following acts, when committed as part of a widespread or systematic attack directed against any civilian population, shall constitute a crime against humanity:

1. Rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilization or any form of sexual violence of comparable seriousness.
2. Intentional homicide.
3. Extermination.
4. Deportation.
5. The crime of apartheid.
6. Subjection to slavery or the mass and systematic practice of summary executions, abduction and disappearance.
7. Torture and inhuman acts that intentionally cause severe pain or grievous bodily or psychological harm committed with political, racial, national, ethnic, cultural, religious or sexist motives.

73. The offence of enforced disappearance constitutes a crime against humanity in cases where the facts in themselves amount to crimes against humanity under the relevant international laws.

74. The classification of this international offence as a crime stems from customary international law, and its definition was recently codified in article 7 of the Rome Statute of the International Criminal Court, which Senegal ratified on 2 February 1999. The wording of article 7 was transposed into Senegalese law as article 431-2 of the Criminal Code, under which crimes against humanity can take the form of enforced disappearance.

75. Regarding the status of the perpetrator, it should be noted that crimes against humanity, as defined in article 7 of the Rome Statute, can, in some instances, be committed by non-State actors. Paragraph 2 of the article states that an attack against a civilian population constitutes a crime against humanity when it is carried out pursuant to or in furtherance of a State or organizational policy to commit such an attack.

76. As can be seen from the preceding paragraphs, the offence of enforced disappearance as a crime against humanity is sufficiently covered under Senegalese law. No measures to transpose it into domestic law are necessary.

B. Consequences provided for under domestic law and impact on other articles of the Convention

77. Under article 5 of the Convention, when enforced disappearances constitute crimes against humanity, the legal consequences provided for in international law should be applied.

(a) Article 6 — Criminal responsibility

78. It is worth referring to the relevant provisions of the Rome Statute, namely: article 25, paragraph 3, in relation to article 6, paragraph 1 (a), of the Convention; article 28 in relation to article 6, paragraph 1 (b), of the Convention; and article 33 in relation to article 6, paragraph 2, of the Convention. These provisions reflect codified customary international law.

79. These provisions have been transposed into domestic law through articles 295-1 and 106 et seq. of the Criminal Code. Specifically, articles 106 and 107 cover the various means of committing or being involved in the offence set forth in article 6, paragraph 1 (a), of the Convention; article 295-1 on torture deals with the responsibility of superiors as provided for in article 6, paragraph 1 (b), of the Convention; paragraph 2 addresses non-exoneration of responsibility on grounds of the law or of superior orders, as stipulated in article 6, paragraph 2, of the Convention.

(b) Article 7 — Penalties

80. Applicable international law, as referred to in article 5 of the Convention, does not appear to establish a specific standard in terms of penalties.

81. In domestic law, the Criminal Code stipulates that crimes against humanity, as defined in its article 432-1, incur hard labour for life, a penalty that applies to enforced disappearances constituting crimes against humanity.

(c) Article 8 — Statute of limitations

82. Senegal considers that international criminal law contains a specific customary rule regarding the non-applicability of limitations to serious violations of international humanitarian law (i.e. the crime of genocide, crimes against humanity and war crimes).

83. Mention should also be made of the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, adopted by the General Assembly of the United Nations on 26 November 1968, whose article 1 consecrates the principle that no statutory limitation may be applied to crimes against humanity.

84. This principle is also enshrined in domestic criminal law under article 7, paragraph 4, of the Code of Criminal Procedure, which states that the offences defined under articles 431-1 to 431-5 of the Criminal Code — on the crime of genocide, war

crimes and crimes against humanity — are by their nature not subject to statutory limitations.

85. The non-applicability of statutory limitations also holds for serious violations of international humanitarian law.

(d) *Article 9 — Jurisdiction*

86. Senegal is of the view that the obligation to punish perpetrators of crimes against humanity under domestic law and to adopt measures enabling the national courts to punish them stems from customary international law. Relevant practice in this regard is demonstrated in part through the measures adopted by States at the national level and the records of international organizations, including resolutions of the General Assembly and the Security Council on the definition of crimes against humanity and the corresponding penalties. The basis of this obligation was extensively presented by Senegal during proceedings before the International Court of Justice in the case regarding questions relating to the obligation to prosecute or extradite (*Belgium v. Senegal*) and applied in the proceedings launched against Hissène Habré by the Extraordinary African Chambers in Senegal.

87. In addition, the preamble of the Rome Statute enshrines this customary rule, stipulating that the International Criminal Court thereby established is complementary to national criminal jurisdictions.

88. These specific rules regarding the obligation to establish territorial and extraterritorial jurisdiction in order to punish perpetrators of crimes against humanity do not differ from the provisions of article 9 of the Convention. See, therefore, the remarks made in relation to that article.

(e) *Article 11 — Aut dedere, aut judicare*

89. As indicated in point (d), the obligation to prosecute perpetrators of crimes against humanity found in Senegal is based in customary international law. This rule is identical to the one in article 11 of the Convention. See, therefore, the remarks made in relation to that article.

90. Article 669 of the Code of Criminal Procedure, introduced through Act No. 2007-05 of 12 February 2007, reads:

Any foreigner who has been accused of committing or aiding in the commission of any of the offences mentioned in articles 431-1 to 431-5 of the Criminal Code, of the offence of undermining the security of the State or falsifying the State seal or valid national currency, or of any of the actions covered under articles 279-1 to 279-3 and 295-1 of the Criminal Code outside Senegalese territory may be tried under Senegalese law or laws applicable in Senegal if he or she is arrested in Senegal or if one of the victims resides in the territory of Senegal, or if the Government secures the alleged offender's extradition.

(f) *Article 14 — Mutual legal assistance in criminal matters*

91. International law does not appear to contain a specific obligation regarding mutual legal assistance in the prosecution of crimes against humanity. Reference is therefore made to the general provisions mentioned under article 14 of the Convention.

(g) *Article 15 — Assistance to victims*

92. There are no specific rules, under either international or domestic law, regarding assistance to victims of enforced disappearance constituting crimes against humanity.

93. Therefore, the general rules on assistance to victims in Senegalese law apply; see the remarks made in respect of articles 15 and 24 of the Convention.

Article 6

A. Modes of criminal responsibility (including criminal responsibility of superior officials)

94. This comment will focus exclusively on modes of responsibility associated with an enforced disappearance that does not constitute a crime against humanity. For modes of responsibility associated with an enforced disappearance constituting a crime against humanity, reference is made to the comments made in respect of article 5 of the Convention.

95. Articles 2, 3, 45 and 46 of the Criminal Code specify modes of responsibility applicable to all offences, including offences involving acts of enforced disappearance. They cover persons who attempt to commit, commit, order, solicit, are accomplices to or participate in an offence. These modes correspond to those set out in article 6, paragraph 1, of the Convention.

96. While the responsibility of superior officials, as defined in the Convention, is not a separate mode of responsibility for ordinary offences, it is, however, implemented in domestic law in two ways. The order of a superior official may constitute either an offence as such under article 106 of the Criminal Code or a mode of responsibility through participation and complicity covered by articles 45 and 46 of the Criminal Code. Senegalese case law has specified that refrainment may constitute punishable participation when the person concerned has a positive duty to act and/or when, by virtue of the circumstances, his or her conscious and intentional refrainment from action constitutes a positive encouragement to the perpetration of an offence or an expression of intent to cooperate directly in its commission by helping to allow it or facilitate it, or when he or she has made the commission of the projected offence materially possible (Criminal Code, art. 49, para. 2, and art. 307).

97. It is neither necessary nor desirable to establish the criminal responsibility of superior officials as a separate mode of responsibility. Were the modes of responsibility enumerated in the Convention to be associated with the offence of enforced disappearance (or related offences), the coherence of Senegalese criminal law would be compromised: such an enumeration could lend itself to a dangerous *a contrario* interpretation whereby responsibility of a superior official would be excluded for other offences under ordinary and international law whose incorporation into Senegalese law has not included such an enumeration.

B. Due obedience, superior orders as a ground for justification and illegal orders

98. In current Senegalese law, an order of enforced disappearance would be illegal and would engage the responsibility of the superior who gave it, under the terms of articles 106, 110 and 111 of the Criminal Code. In addition, public officials having knowledge of such an order would be required to report it. Subordinates who receive such an order would be obliged to refrain from carrying it out.

99. As for members of the police, this obligation of refrainment is enshrined in the Police Personnel Disciplinary Regulations. Where members of the armed forces are concerned, the relevant provisions are contained in the Code of Military Justice (art. 168) and Decree No. 90-1159 of 12 October 1990 on general disciplinary regulations for the armed forces (art. 34 et seq.).

100. Concretely, subordinates who refuse to carry out an order on the basis of their status, their code of ethics and the domestic and international legal framework make that decision known to their superior and do not act. If, subsequently, disciplinary or criminal proceedings are initiated against any such subordinate, he or she may plead the existence of exceptional reasons for refusing to obey.

101. If, on the contrary, the subordinate carries out the order of enforced disappearance, he or she may be held responsible and subject to disciplinary measures in accordance with the aforementioned provisions and may be held criminally responsible in accordance with the articles cited in the comment in respect of articles 2 and 5 of the Convention.

102. The subordinate concerned would not be able to justify the offence committed by pleading a superior order. Article 315 of the Criminal Code recognizes the legitimacy of a plea of order from a public authority only in cases where such an order is required by law and authorized by the legitimate authority. However, in the light of the law, in the broad sense, and therefore including directly applicable international provisions, enforced disappearance is clearly prohibited. This line of reasoning remains valid whether or not the enforced disappearance constitutes a crime against humanity, even though, in the latter case, the Criminal Code expressly disallows superior orders as a justification.

Article 7

A. Criminal sanctions

103. With regard to enforced disappearance as a crime against humanity, reference is made to the comments made in respect of article 5 of the Convention.

104. As for ordinary offences, and pending the entry into force of a legislative amendment recognizing enforced disappearance as a separate offence, Senegal submits the following information concerning penalties applicable to offences related to that act:

- Torture (Criminal Code, art. 295-1): 5 to 10 years' imprisonment and a fine of 100,000 to 500,000 CFA francs;
- Illegal or arbitrary detention by public officials (Criminal Code, art. 106): loss of civil rights. Where the act is based on a false signature, the penalty is 10 to 20 years' hard labour;
- Illegal arrest and confinement (Criminal Code, arts. 106 and 334);
- Debt bondage (Criminal Code, art. 334);
- Hostage-taking (Criminal Code, art. 337);
- Abduction or concealment of a minor, child abandonment, failure to relinquish a child (Criminal Code, arts. 338 to 349).

Article 334 of the Criminal Code reads:

A person who, without an order from the competent authorities and apart from cases in which the law requires the seizure of accused persons, arrests, detains or illegally confines any other person shall be liable to 5 to 10 years' hard labour.

Whoever provides a place for carrying out the detention or confinement shall be liable to the same penalty.

Persons who, either free of charge or for payment, conclude an agreement for the purpose of alienating the freedom of a third person shall also be liable to the

same penalty. The money, objects or valuables received in fulfilment of said agreement shall be confiscated. The maximum penalty shall be imposed where the person who is the object of the agreement is under 15 years of age.

Whoever provides or receives a person in debt bondage, irrespective of the motive, shall be liable to between 1 month and 2 years' imprisonment or a fine of 2,000 to 150,000 CFA francs, or both. Imprisonment may be extended to 5 years where the person offered or received in debt bondage is under 15 years of age.

Persons found guilty shall in any case be stripped of the rights referred to in article 34 for a period of no less than 5 and no more than 10 years.

Article 335 stipulates that, "Where the detention or illegal confinement lasts for more than one month, the penalty shall be hard labour for life."

Article 336 states that:

The penalty shall be reduced to 1 to 5 years' imprisonment where the perpetrator of the offences covered in article 334, before any formal proceedings are undertaken, releases the person under arrest or being detained or illegally confined by end of the tenth day of the arrest, detention or illegal confinement. Persons found guilty may nonetheless be prohibited from residing in the country for 5 to 10 years.

Article 337 reads:

In the following two cases:

Where an arrest was carried out by a person in a fake uniform, under a false name or in application of a forged order of a public authority;

Where threats are made against the life of the person arrested, detained or illegally confined;

Those found guilty shall be liable to hard labour for life.

The penalty shall be death where the persons arrested, detained or illegally confined were subjected to physical torture.

Article 337 bis (Act No. 76-02 of 25 March 1976) stipulates that:

Where a person, irrespective of his or her age, was arrested, detained or held hostage, either to prepare or facilitate the commission of an offence, to assist with an escape or ensure the impunity of the perpetrators of or accessories to an offence, or to elicit payment of a ransom or the execution of an order or condition, the penalty shall be death.

However, the penalty shall be 10 to 20 years' hard labour if the person arrested, detained or held hostage is voluntarily released, without an order having been executed or a condition fulfilled, by the end of the fifth day of the arrest, detention or illegal confinement.

Mitigating circumstances shall not apply to persons found guilty of the offence defined in paragraph 1 where the hostage-taking leads to the death of the hostage or any other person, irrespective of whether the death occurred when the person was in the custody of the hostage-takers or as a result of injuries or violence sustained in the course of the abduction.

Where a hostage-taking does not result in any deaths and mitigating circumstances have been granted to the persons found guilty of the offence defined in paragraph 1, the penalty shall be hard labour for life, notwithstanding the provisions of article 432, paragraph 2.

Article 338 reads:

Persons found guilty of abduction or concealment of a child, concealment of birth, substitution of one child for another or attribution of a child to a woman who has not conceived shall be liable to 5 to 10 years' imprisonment. The same penalty shall apply to persons who, being responsible for a child, fail to relinquish the child to those with a claim to him or her.

Article 339 states that "Any person who, having attended a birth, does not make the declaration provided for under civil registry regulations shall be liable to 1 to 6 months' imprisonment and a fine of 20,000 to 75,000 CFA francs."

Under article 340:

Any person who, having found a newborn, does not hand the infant over to an official of the civil registry shall be liable to the penalties provided for in the preceding paragraph. This provision shall not apply to persons who have agreed to care for the child and have made a statement in this regard before the administrative authority of the place where the child was found.

Article 341 reads:

Persons who have exposed or abandoned in an isolated place, or have had others expose or abandon in an isolated place, a child or incapable person, who is unable to protect himself or herself owing to his or her physical or mental state, shall be, for this act alone, liable to 1 to 3 years' imprisonment and a fine of 20,000 to 200,000 CFA francs.

Article 342 stipulates that "The penalty provided for under the preceding article shall be increased to 2 to 5 years' imprisonment and a fine of 20,000 to 400,000 CFA francs where the perpetrator is a parent or grandparent, any person with authority over the child or incapable person, or his or her guardian."

Article 343 states that:

Where the exposure or abandonment results in illness or total incapacity for more than 20 days, the maximum penalty shall apply. If the child or incapable person is left mutilated or crippled, or with a permanent disability, the perpetrators shall be liable to 5 to 10 years' imprisonment. Where the perpetrators are persons referred to in article 342, the penalty shall be 10 years' imprisonment. Where the exposure or abandonment in an isolated place results in death, the act shall be considered as murder.

Article 344 reads:

Persons who have exposed or abandoned in a non-isolated place, or have had others expose or abandon in a non-isolated place, a child or incapable person, who is unable to protect himself or herself owing to his or her physical or mental state, shall be, for this act alone, liable to 3 months' to 1 year's imprisonment and a fine of 20,000 to 200,000 CFA francs. Where the perpetrators are persons referred to in article 342, the penalties shall be doubled.

Under article 345:

Where the exposure or abandonment results in illness or total incapacity for more than 20 days, or in one of the disabilities listed in article 294, paragraph 2, the perpetrators shall be liable to 1 to 5 years' imprisonment and a fine of 20,000 to 200,000 CFA francs.

Where the unintended result is death, the penalty shall be 5 to 10 years' rigorous imprisonment.

Where the perpetrators are persons referred to in article 342, the penalty shall be 5 to 10 years' imprisonment, in the first case, and 10 to 20 years' long-term hard labour, in the second case.

Article 346 stipulates that:

Any person who has, by fraud or violence, abducted or has had abducted, minors of under 15 years of age, or moved, removed or transferred them, or has had them moved, removed or transferred, from the premises in which they had been placed by the authority or department to which they had been entrusted shall be liable to 5 to 10 years' imprisonment.

Article 347 (Act No. 76-02 of 25 March 1976) reads:

Where the abducted or removed minor is under 15 years of age, the penalty shall be hard labour for life.

However, the penalty shall be 5 to 10 years' hard labour where the minor is found alive before the guilty verdict is rendered.

Abduction carries the death penalty where it results in the death of the minor.

Article 348 states that:

Any person who has, without fraud or violence, abducted or removed or has attempted to abduct or remove a minor under the age of 18, shall be liable to 2 to 5 years' imprisonment and a fine of 20,000 to 200,000 CFA francs.

Where an under-age girl abducted or removed in this way has married her abductor, the latter may be prosecuted only on the basis of a complaint by persons who have the right to request the annulment of the marriage and may be condemned only after such annulment has been pronounced.

Article 349 stipulates that:

Where the custody of a minor has been decided by the courts, whether temporarily or definitively, the father, mother or any other person who does not relinquish the minor to those who have a right to him or her, or who, even without the use of fraud or violence, abducts or removes the minor or has him or her abducted or removed from those in whose custody the minor has been placed or from the places in which those persons have placed the minor shall be liable to 2 months' to 2 years' imprisonment and a fine of 20,000 to 200,000 CFA francs.

Where the perpetrator had been stripped of parental authority, imprisonment may be increased to 3 years.

105. In addition to the prison terms and financial penalties enumerated above, certain political and civil rights may also be revoked under article 34 of the Criminal Code.

106. Once Senegalese law has been amended to establish enforced disappearance as a separate offence, specific penalties will be attached thereto. These will be determined in such a way as to maintain the coherence of the existing criminal punishment system and will adopt standards set for the most serious crimes, as required by the Convention.

B. Maximum sanctions provided for under the Criminal Code

107. The penalty set forth for enforced disappearance as a crime against humanity is hard labour for life.

108. The maximum penalty that may be handed down, under current Senegalese law, for an act of enforced disappearance that does not constitute a crime against humanity varies. See the penalties under the Criminal Code (pages 17 to 21 of this report).

C. Mitigating or aggravating circumstances

109. As regards the offences mentioned under A above, the Criminal Code provides for aggravating circumstances based on the status of the offender and the vulnerability of the victim.

110. The reason for establishing specific mitigating circumstances is the concern to bring about the prompt liberation of the victim. Moreover, the penalty may be reduced on grounds of other mitigating circumstances under article 433 of the Criminal Code and the Act of 29 December 2000 on the execution and adjustment of custodial sentences.

111. Once Senegalese law has been amended to establish the act of enforced disappearance as a separate offence, specific aggravating and mitigating circumstances will be defined. These will be established in such a way as to maintain the coherence of the existing criminal punishment system; they will therefore be guided by considerations similar to those mentioned above.

D. Disciplinary sanctions

(a) Police

112. In addition to criminal punishment mechanisms, misconduct on the part of members of the police may be sanctioned through disciplinary procedures established under the Act of March 2009 on the Police Personnel Disciplinary Regulations and its implementing decree.

113. The disciplinary authority does not, in principle, have to wait for a decision of the criminal court to sanction a breach of discipline that may also constitute a criminal offence. It is nevertheless bound by the decisions of the criminal court in regard to the existence of the facts and the guilt of the person concerned. For this reason, a disciplinary sanction imposed for events which the criminal court subsequently considers not to have occurred or which were committed by a person who, according to the criminal court, was of unsound mind at the time, must be withdrawn. Conversely, the decision of the Public Prosecutor not to prosecute or the determination of the criminal court that prosecution is inadmissible because of statutory limitation or termination of public proceedings following payment of a sum of money are not binding on the disciplinary authority.

(b) Armed forces

114. In addition to criminal punishment mechanisms, misconduct on the part of members of the armed forces may be sanctioned through disciplinary procedures in accordance with Decree No. 90-1159 of 12 October 1990 on disciplinary regulations of the armed forces, which stipulates that military personnel must in all circumstances “refrain from any activity contrary to the Constitution and Senegalese laws”.

115. However, no disciplinary punishment can be imposed on military personnel:

- For facts identical to those for which he or she has been convicted by criminal courts, even if the offence constitutes a breach of discipline;
- When he or she has been found not guilty of the facts of which he or she is accused by a criminal court.

116. If, on the other hand, a judicial information procedure for the purpose of criminal proceedings has been closed, the case file is transmitted to the commander of the person concerned. In such cases, the military authority evaluates the facts from a disciplinary perspective. If there has been a breach of discipline, the military authority retains the right to impose a disciplinary sanction.

117. Where appropriate, the following statutory measures may be taken against the member of the military concerned:

- Temporary withdrawal of employment as a disciplinary measure;
- Definitive withdrawal of employment by discharge from the army corps.

Article 8

A. Application of a statute of limitations to criminal proceedings and sanctions

118. The Code of Criminal Procedure includes the following:

Article 7:

In the case of felonies, the statute of limitations is 10 years after the date on which the felony was committed if no act of investigation or prosecution has taken place in that interval.

If such an act has taken place during that interval, the statute of limitations shall be 10 years after the most recent such act. The same applies to persons who were not implicated in these acts of investigation or prosecution.

The period is suspended by any de jure or de facto obstacle preventing prosecution.

By their nature, the crimes defined in articles 431-1 to 431-5 of the Criminal Code are not time-barred (Act No. 2007-05 of 12 February 2007).

Article 8:

In the case of misdemeanours, the statute of limitations is three years; it applies in accordance with the provisions of the preceding article.

Nonetheless, with regard to the misappropriation of public funds, the statute of limitations is seven years after the date on which the offence was committed.

Article 9:

In the case of infractions, the statute of limitations is one year; it applies in accordance with the provisions of article 7.

Article 10:

A civil action cannot be initiated after the expiration of the statute of limitations on prosecution.

However, once a final ruling has been issued on the proceedings, and provided a criminal sentence has been handed down, civil actions are subject to a 10-year statute of limitations.

In all respects, civil actions are subject to the provisions of the Code of Civil and Commercial Obligations.

119. These provisions are designed to ensure a balance between the victim's right to effective remedy and the right of the accused person, who is presumed innocent, to be tried within a reasonable time, guaranteeing, in particular, the reliability of evidence.

120. They apply to all offences associated with an act of enforced disappearance.

121. These provisions will also be applicable to an act of enforced disappearance when it is treated as a separate offence.

B. Non-applicability of statutory limitation to crimes against humanity

122. The principle is established by article 7 of the Code of Criminal Procedure, quoted above.

C. Starting point of statutory limitation

123. In the case of continuous offences, by which is meant offences that involve the establishment and continuation of criminality, the statute of limitations begins only once the offence has ceased, or, in other words, when the state of criminality comes to an end.

124. The continuous nature of an offence is never expressly referred to in legislative texts. That is a matter for the courts to determine.

125. Consequently, once Senegalese law has been amended to establish the act of enforced disappearance as a separate offence, it will not be necessary to refer specifically, in the definition of that offence, to its continuous character. First, this will undoubtedly be recognized in judicial decisions. Furthermore, its inclusion in the wording of the offence could lend itself to a dangerous *a contrario* interpretation concerning other existing continuous offences not explicitly defined as such in the Criminal Code, unless all the existing offences concerned were redefined.

D. How the State party guarantees that no statute of limitations applies for criminal, civil or administrative actions brought by victims seeking the right to an effective remedy

126. Articles 6 et seq. of the preliminary title of the Code of Criminal Procedure recognize that, in certain circumstances, the statute of limitations may be suspended or interrupted in order to safeguard the right of victims to an effective remedy. These grounds apply to all offences associated with an act of enforced disappearance. Similarly, they will be applicable to the offence of enforced disappearance when it has been introduced into the Criminal Code.

127. Although civil action following an offence is governed by specific provisions of the Code of Civil and Commercial Obligations, it is not subject to any statute of limitations before criminal prosecution, as noted in article 10 of the Code of Criminal Procedure, which states:

Civil action cannot be initiated after the expiration of the statute of limitations on prosecution.

However, once a final ruling has been issued on the proceedings, and provided a criminal sentence has been handed down, civil actions are subject to a 10-year statute of limitations.

In all other respects, civil actions are subject to the provisions of the Code of Civil and Commercial Obligations.

128. The victim's right to an effective remedy is thus also guaranteed for the purpose of seeking reparation for the injury sustained.

129. Article 3 of the Code of Criminal Procedure states:

A civil action may be instituted at the same time as the prosecution and before the same court. It is admissible for all types of loss or injury, both material and

physical or mental, resulting from the offences forming the subject of the proceedings. The injured party may institute proceedings before a criminal court to obtain compensation for loss or injury resulting from the offence forming the subject of the proceedings or for any other loss or injury resulting directly from the fault of the offender.

E. Effective remedies sought in relation to the statute of limitations

130. During the period of limitation, the victims of an enforced disappearance may apply to the competent judicial authorities.

131. The indictments chamber monitors the process of investigation under articles 185 to 217 of the Code of Criminal Procedure.

132. If the victims of an offence encounter a malfunction in the treatment of their complaint, they may apply to the Attorney-General or the Public Prosecutor.

133. Lastly, it is also always possible for a complainant to seek redress from the Court of Justice of the Economic Community of West African States, subject to the admissibility criteria governing complaints. It should be noted in this regard that the Court does not require the exhaustion of domestic remedies.

Article 9

A. Measures taken to establish jurisdiction in the cases contemplated under paragraphs 1 and 2

134. Current Senegalese law already covers the grounds for jurisdiction set out in article 9, paragraphs 1 and 2, of the Convention. In addition to the territorial jurisdiction of the Senegalese courts, title 12 of the Code of Criminal Procedure provides for several forms of extraterritorial jurisdiction. Article 669 of the Code of Criminal Procedure states that any foreign national who, outside Senegalese territory, has been accused of committing or aiding in the commission of any of the crimes mentioned in articles 431-1 to 431-5 of the Criminal Code, an offence against the security of the State or forgery of the seal of the State or of national currency of legal tender in Senegal, or of the acts referred to in articles 279-1 to 279-3 and 295-1 of the Criminal Code, may be prosecuted and tried under Senegalese law or laws applicable in Senegal if he or she is arrested in Senegal, if a victim resides in Senegalese territory or if the Government secures the alleged offender's extradition.

135. This article provides for the criminal proceedings directly called for by the rule laid down in article 9, paragraph 2, of the Convention.

B. Legal provisions, including any treaties, concerning mutual legal assistance that apply to ensure jurisdiction for acts of enforced disappearances

136. See the comments under this article in section A and under article 14 of the Convention.

C. Cases involving the offence of enforced disappearance in which mutual legal assistance was requested by or from the reporting State party

137. Officials from the Ministry of Justice have not had to deal with any case of enforced disappearance. For that reason, there are no examples of extraditions granted or denied.

Article 10

Domestic legal provisions concerning, in particular, the custody of that person or other precautionary measures to ensure his or her presence; his or her right to consular assistance

138. Articles 127 et seq. of the Code of Criminal Procedure, on pretrial detention, and articles 45 et seq. provide for the arrest of a person caught in the act of committing a crime (in flagrante delicto), and likewise the arrest, upon the decision of the Public Prosecutor, of a person who may be considered guilty of a felony or misdemeanour. The form and duration of custody and the rights of the person concerned during this procedure are precisely determined.

139. With regard to the right of foreign detainees to contact their consular authorities, Senegal is a signatory to the Vienna Convention on Diplomatic Relations, under which host countries have the obligation to inform the foreign national's consulate in the event of a prosecution or conviction.

140. Senegalese law does not address this matter, although the prison authorities, at the request of the detainee, will inform the relevant consulate.

141. It would be advisable to include in domestic law a provision that would establish an obligation of disclosure and the right of all foreign nationals to consular assistance in the event of conviction or prosecution.

Article 11

A. Legal framework enabling national courts to exercise universal jurisdiction over the offence of enforced disappearance

142. See the comments made in respect of article 9 of the Convention, in section A. Article 669 of title XI of the Code of Criminal Procedure, which is referred to therein, provides for the criminal proceedings directly called for by the rule laid down in article 11 of the Convention.

B. Competent authorities for the implementation of the various aspects of article 11

143. Such authorities include those involved in extradition cases and those competent to institute criminal proceedings.

C. Fair trial and standards of evidence

144. Once it has been established that the Senegalese courts have extraterritorial jurisdiction over an offence, Senegalese law guarantees a fair trial for the accused person and does not permit any difference of treatment during the procedure, including in matters of evidence (Code of Criminal Procedure).

D. Measures ensuring the right to a fair trial at all stages of the proceedings

145. It is to be recalled that Senegal recognizes the primacy of international law over domestic law and the direct enforceability of the provisions contained in the international instruments for the protection of fundamental rights to which it is a party.

146. Senegal guarantees the right to a fair trial enshrined in articles 14 and 15 of the International Covenant on Civil and Political Rights and article 7 of the African Charter on Human and Peoples' Rights, in all its aspects, whether expressly included in the wording of those provisions or established by case law.

147. Senegalese law thus recognizes the equality of all before the law, the right of access to an independent, impartial tribunal, the public character of hearings, the presumption of innocence, respect for the rights of the defence, the principle of the legality of offences and penalties, the obligation to give reasons for decisions, the right of appeal in criminal matters and the principle of *non bis in idem*.

148. Preferable to summarizing all the relevant domestic provisions is to highlight the willing attitude of lawmakers, as shown by the new reforms under consideration, which would enable persons to enjoy the assistance of counsel as soon as they are taken into custody.

E. Competent authorities to investigate and prosecute persons accused of enforced disappearance

149. Senegalese law offers two separate mechanisms for investigation: preliminary inquiries and judicial investigations.

150. The purpose of the preliminary inquiry is to identify offences, offenders and evidence. It may be undertaken both reactively — where a report or complaint has been made — and proactively. It is carried out under the supervision and authority of the Public Prosecutor. In some cases, it can lead to such coercive measures as police custody.

151. Judicial investigation is a procedure whose sole purpose is to identify those who have committed offences and to obtain evidence. It is carried out under the supervision and authority of an investigating judge who assumes responsibility for it. Coercive methods that hinder the exercise of individual rights and freedoms, such as searches, obligation to testify and pretrial detention, may be used in judicial investigations.

152. Judicial investigations can be a logical continuation or development of the preliminary inquiry. Prosecution through direct summons by the Public Prosecution Service for misdemeanours and felonies that can be tried on indictment may nevertheless be based on the preliminary inquiry alone if, in the light of the evidence gathered, judicial investigation does not appear necessary.

153. Public prosecution is the preserve of the Public Prosecution Service, even when the accused person is a member of the military. The only distinctive feature of that situation is that, if the preliminary inquiry is discontinued, the file could be transmitted to the unit of the person concerned, which may then launch an investigation to be included in the person's disciplinary or assessment file.

Article 12

A. Process followed and mechanisms used by the relevant authorities to clarify and establish the facts relating to enforced disappearances

154. The procedures under the Code of Criminal Procedure relating to inquiries and investigations are used to clarify and establish the facts constituting an enforced disappearance (kidnapping, confinement, arbitrary detention, violence, assault, abduction, etc.).

B. Mechanisms available to individuals who allege that a person has been subjected to enforced disappearance

155. Senegalese law provides for the right to report an offence, lodge a complaint and bring criminal indemnification proceedings. Reporting an offence is a right.

156. Article 1 of the Code of Criminal Procedure thus reads as follows: “Criminal proceedings to obtain the imposition of penalties are set in motion and conducted by magistrates and officials to whom such proceedings are entrusted by law. They may also be set in motion by the injured party, under the conditions established by this Code.”

157. In addition, article 32 of the Code of Criminal Procedure states: “The Public Prosecutor shall receive complaints and reports of offences and determine what action needs to be taken.”

158. Any duly constituted authority or public official or civil servant who, in the discharge of his or her duties, learns of a felony or misdemeanour must immediately report it to the Public Prosecutor and transmit all relevant information and records to him or her (Act No. 85-25 of 27 February 1985).

159. In some cases, reporting an offence is also a duty. Article 48 of the Criminal Code imposes a prison sentence of between 2 months and 3 years or a fine of 25,000 to 1 million CFA francs, or both, on anyone who, being aware that an offence has been attempted or committed, fails to promptly notify the administrative or judicial authorities while it is still possible to prevent or mitigate the effects of the offence, or where there is reason to believe that one or more of the perpetrators may commit further offences that could be prevented by reporting the offence.

C. Access of any complainant to independent and impartial authorities, including information on any discriminatory barriers to the equal status of all persons before the law, and any rules or practices preventing harassment or re-traumatization of victims

160. In the performance of their duties, the police and judicial authorities are required to abide by the principle of equality and non-discrimination guaranteed by the Constitution (arts. 10 and 11), as by other instruments of international law such as the International Convention on the Elimination of All Forms of Racial Discrimination. Moreover, this is one of the fundamental values of the African Union. Accordingly, compliance with this principle may be monitored not only by domestic authorities but also by such international courts as the Court of Justice of the Economic Community of West African States.

161. Article 3 of Act No. 81-70 of 10 December 1981, in fulfilment of the obligations under the International Convention on the Elimination of All Forms of Racial Discrimination, provides for punishment of the following:

Any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin that has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

162. Moreover, article 166 bis of the Criminal Code states:

Any administrative or judicial official, elected official or official of a public authority, or any official or employee of the State, public institutions, national corporations, public-private corporations or corporations receiving financial support from the Government, who denies any natural or legal person the exercise of a right without just cause on grounds of racial, ethnic or religious discrimination shall be liable to a prison sentence of between 3 months and 2 years and a fine of between 10,000 and 2 million CFA francs.

163. The principles of judicial independence and impartiality also make it possible to respect this standard. These are general principles of law, established in article 91 of

the Constitution, and an essential component of the right to a fair hearing enshrined in article 14 of the International Covenant on Civil and Political Rights and article 7 of the African Charter on Human and Peoples' Rights.

164. A person alleging a violation of the principles of impartiality, equality and non-discrimination in the treatment of his or her complaint may petition the Public Prosecutor regarding a violation of article 166 bis.

165. It should be stressed here that, in Senegal, there are legal advice centres responsible for helping victims, as required, overcome the consequences of the offence. They can provide them with psychosocial or practical support and the necessary information.

D. Remedies available to the complainant in case the competent authorities refuse to investigate his or her case

166. The Public Prosecution Service determines what action should be taken on a report or complaint: it will usually take the form of a laying of an information, unless the report or complaint appears unfounded from the outset, in which case it will be declared closed by a reasoned decision.

167. If, however, the complainant institutes proceedings before an investigating judge, the judge is required to investigate at the request of the Public Prosecution Service. The investigating judge's jurisdiction is limited to the investigation procedure, whereby the judge concerned may decide in favour of either a dismissal or a referral to a trial court.

E. Mechanisms for the protection of the complainants, their representatives, witnesses and other persons participating in the investigation, prosecution and trial from any kind of intimidation or ill-treatment

168. In general, intimidation, assault and battery, threats and ill-treatment of all kinds are criminal offences. In accordance with criminal law, the victims of such offences may therefore report them.

169. More specifically, it should be made clear that the Criminal Code provides for a number of measures for the protection of persons involved in the investigation. In addition, several provisions of the Criminal Code and the Code of Criminal Procedure contribute to the prevention and penalization of action detrimental to the workings of justice, such as obstruction of justice, false accusation, the breach of confidentiality of the investigation, the reception of administrative documents, false testimony, the corruption of witnesses, the falsification of public documents, malicious prosecution and so on.

F. Statistical data on the number of complaints of enforced disappearance submitted to the domestic authorities and information on any units in police forces, prosecutorial or other relevant offices with personnel specifically trained to start investigations on cases of enforced disappearance

170. There is no record of any complaint of enforced disappearance as defined in article 2 of the Convention.

171. In Senegal, there is no office specialized in dealing with enforced disappearance as it is defined in article 2 of the Convention. Police or legal cooperation, however, can be offered at the request of a State when a disappearance must be cleared up.

G. Access of the competent authorities to places of detention

172. The Code of Criminal Procedure ensures that the authorities responsible for preliminary inquiries and investigation have the means to carry out their work, including, as required by the Convention, unrestricted access to official places of detention (arts. 83-87, 142-148, 212 and 213 of the Code of Criminal Procedure), as well as access to private places.

H. Measures provided by law to remove suspects from any posts where they would be in a position to influence the investigations or threaten persons involved in the investigations

173. Impartiality requires that a preliminary inquiry or an investigation cannot be directed or carried out by a member of the police force, the Public Prosecution Service or an investigating judge who is him- or herself suspected of the offence in question.

174. As is explained in the comment under C above, impartiality is a well-established general principle of law whose non-observance may be sanctioned by national bodies, through criminal and disciplinary measures, and by international bodies.

175. The involvement of police officers in cases in which they have a personal interest is explicitly barred.

176. As for judges and public prosecutors, the Code of Criminal Procedure provides for grounds for recusal in order to safeguard not only impartiality but also the appearance of impartiality.

177. Articles 650 to 655 of the Code of Criminal Procedure address the issue of the recusal of the members of a Court.

Article 13**A. National legislation that makes enforced disappearance an extraditable offence in all treaties with all States, extradition treaties that include enforced disappearance as an extraditable offence and possible obstacles in the implementation of those treaties**

178. Enforced disappearance is not expressly provided for as an extraditable offence in the treaties in force. It is implicitly covered, however, by the International Convention for the Protection of All Persons from Enforced Disappearance.

179. Article 13 of the Convention states:

For the purposes of extradition between States Parties, the offence of enforced disappearance shall not be regarded as a political offence, an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition based on such an offence may not be refused on these grounds alone.

180. The offence of enforced disappearance shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties before the entry into force of this Convention.

181. States Parties undertake to include the offence of enforced disappearance as an extraditable offence in any extradition treaty subsequently to be concluded between them.

182. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no

extradition treaty, it may consider this Convention as the necessary legal basis for extradition in respect of the offence of enforced disappearance.

183. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offence of enforced disappearance as an extraditable offence between themselves.

184. Extradition shall, in all cases, be subject to the conditions provided for by the law of the requested State Party or by applicable extradition treaties, including, in particular, conditions relating to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition or make it subject to certain conditions.

185. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin, political opinions or membership of a particular social group, or that compliance with the request would cause harm to that person for any one of these reasons.

186. The older extradition agreements, which date from the late nineteenth and early twentieth centuries, contain exhaustive lists of extraditable offences. Insofar as more recent offences, such as participation in a criminal organization, trafficking in human beings, money laundering, corruption and hence also enforced disappearance, are not included in these lists, they are as a matter of principle not extraditable barring the existence of judicial cooperation treaties or agreements between two countries. In Senegal, extradition is organized under Act No. 71-77 of 28 December 1971, and in the absence of treaties, the conditions, procedure and effects of extradition are determined by this Act.

187. Senegal has entered into many judicial cooperation agreements:

- Within the framework of the African and Malagasy Union: Senegal, the Central African Republic, Cameroon, Benin, Burkina Faso, Niger, Chad, Gabon, Congo, Côte d'Ivoire, Madagascar and Mauritania. Agreement of 12 September 1961 — Official Gazette 1967, pp. 900 et seq.;
- Guinea: Agreement of 22 June 1962 — Official Gazette 1966, p. 420;
- Tunisia: Agreement of 13 April 1954 — Official Gazette 1988, p. 201 et seq.;
- Mali: Agreement of 8 April 1965 — Official Gazette 1959, pp. 136 et seq.;
- Morocco: Agreement of 3 July 1967 — Official Gazette 1986, pp. 136 et seq.;
- Gambia: Agreement of 28 April 1973 — Official Gazette 1983, pp. 960 et seq.;
- France: Agreement of 29 March 1974 — Official Gazette 1987, pp. 182 et seq.;
- Guinea-Bissau: Agreement of 8 January 1975 — Official Gazette 1986, pp. 118 et seq.;
- Agreement of 17 April 1984 — Official Gazette 1986, p. 94;
- The States bound by the Non-Aggression and Defence Assistance Agreement: Mali, Mauritania, Niger, Burkina Faso, Côte d'Ivoire, Senegal and Togo. Agreement of 21 April 1987 — Official Gazette 1988, p. 103.

188. An act of enforced disappearance may be extraditable if it is denoted under one or more existing offences. The evaluation of dual criminality is a theoretical exercise. It is enough for facts to be punishable under Senegalese law and for them to meet a minimum level of criminality, irrespective of how they are denoted.

189. In accordance with article 4 of Act No. 71-77 of 28 December 1971, the following acts may give rise to extradition, whether for the purposes of requesting it or granting it:

1. Any act subject to criminal penalties under the law of the requesting State;
2. Acts punishable as misdemeanours when the maximum penalty under the law is at least two years, or, in the case of a convicted person, when the penalty imposed by the court in the requesting State is equal to or greater than 2 months' imprisonment.

In no circumstances will the Senegalese Government grant extradition if the acts concerned are not punishable as felonies or misdemeanours under Senegalese law.

Acts constituting attempted commission of or complicity in an offence are subject to the above rules provided that they are punishable under the legislation of the requesting State and of the State of which the request is made.

If the request relates to several offences committed by the person sought and for which he or she has not yet been tried, extradition shall be granted only if the maximum aggregate penalty under the law of the requesting State for the offences is equal to or greater than 2 years' imprisonment.

If the person sought has previously been convicted in any country and finally been sentenced to 2 years' imprisonment or more for an offence under ordinary law, extradition shall be granted in accordance with the above rules, that is, only for felonies or misdemeanours, but without regard to the severity of the sentence applicable or imposed for the most recent offence.

The above provisions shall apply to offences committed by members of the military, the navy or similar bodies when they are punishable under Senegalese law as offences under ordinary law.

The practices governing the handing over of sailors who have deserted shall remain unchanged.

B. Examples of cooperation among States in which the Convention was used as a basis for extradition and cases where the State granted the extradition of a person alleged to have committed any of the offences referred to above

190. No example of extradition based on the Convention has been reported.

C. Political offence

191. Article 5 of Act No. 71-77 of 28 December 1971 states:

Extradition shall not be granted:

1. When the subject of the request is a Senegalese national and was recognized as such at the time of the commission of the offence for which extradition is requested;
2. When the felony or misdemeanour is of a political nature or if the circumstances indicate that the extradition request is politically motivated. Acts committed during a rebellion or civil war by one of the parties involved in order to further its cause are extraditable only if they constitute acts of extreme barbarity or destructiveness prohibited by the laws of war and only after the civil war has ended;
3. When the felonies or misdemeanours were committed in Senegal;

4. When, according to the laws of the requesting State or the requested State, the time limit for bringing an action has passed before the extradition request is served, or the time limit for the enforcement of the sentence has passed before the arrest of the individual whose extradition is requested and, generally, whenever the prosecution is statute-barred.

192. There has not yet been an extradition on political grounds in Senegal.

D. Authority that decides on a request for extradition and the criteria on which the decision is based

193. Articles 9 to 18 of Act No. 71-77 of 28 December 1971 state as follows:

Article 9:

Any request for extradition shall be transmitted to the Senegalese Government through diplomatic channels and accompanied by a judgement or sentence, even by default or in absentia, by a procedural document formally declaring or automatically giving rise to the referral of the accused to a criminal court or by an arrest warrant or any other document with the same force and issued by the judicial authority, provided that these documents clearly state the act in respect of which they are issued and the date on which it occurred.

Original or certified copies of the above documents must be provided.

The requesting Government must include at the same time a copy of the legislation applicable to the criminal act. It may attach a statement of the facts of the case.

Article 10:

After verification of its contents, the extradition request shall be transmitted with the case file by the Minister for Foreign Affairs to the Minister of Justice, who shall consider the legality of the request and act on it in accordance with the law.

Article 11:

Within 24 hours of the arrest, the arrested individual shall be questioned as to his or her identity by the Public Prosecutor or a member of the Public Prosecutor's Office; a record of the interrogation shall be drawn up.

Article 12:

The foreign national shall be transferred as soon as possible and placed in custody in the public jail of the seat of the Court of Appeal within whose territorial jurisdiction he or she was arrested.

Article 13:

The documents in support of the request for extradition shall be simultaneously transmitted by the Public Prosecutor to the Attorney-General. Within 24 hours of the receipt of the documents, the foreign national shall be informed of the charge as a result of which the arrest will take place. The Attorney-General, or a member of his or her office, shall conduct an examination, of which a record is drawn up, to establish his or her identity within 24 hours.

Article 14:

The indictments chamber shall be provided immediately with the aforementioned records and all other documents. The foreign national shall appear before the chamber within no more than eight days of the provision of the documents. At the request of the Public Prosecutor's Office or the person appearing before the

court, a further period of eight days may be granted before proceedings begin. An examination, of which a record is to be drawn up, shall then be conducted. The hearing shall be public, unless otherwise decided, at the request of the Public Prosecutor's Office or the person appearing before the court. The prosecution and the defendant shall be heard. The latter may be assisted by counsel and an interpreter. The defendant may be released on bail at any stage of the proceedings in accordance with the provisions of the law.

Article 15:

If, during his or her appearance, the person concerned states that he or she wishes not to avail him- or herself of the benefit of this Act and formally agrees to be handed over to the requesting State, the court shall acknowledge that statement in writing. A copy of the decision shall be transmitted without delay by the Attorney-General to the Minister of Justice for appropriate action.

Article 16:

Otherwise, the indictments chamber shall issue a reasoned opinion on the extradition request.

This opinion shall be favourable if the Court considers that the legal requirements are met, or that there is no obvious error.

The case file must be sent to the Ministry of Justice within eight days of the date of expiration of the time limits established in article 14.

Article 17:

If the reasoned opinion of the indictments chamber rejects the request for extradition, it cannot be granted.

Article 18:

Otherwise, the extradition may be authorized by decree. If, within one month of notification of this act, the extradited person has not been received by officials of the requesting State, he or she shall be released and cannot be sought for the same cause.

194. The authority competent to decide on a request for extradition is the indictments chamber.

195. The basic criteria for each extradition are as follows:

- The sentence threshold;
- Double criminality;
- The non-applicability of statutory limitations to public prosecution under Senegalese law and under foreign law;
- The acts in question do not constitute a political or related offence;
- The acts in question constitute a felony or a misdemeanour punishable as such.

Article 14

A. Treaty or provision on mutual legal assistance applicable to enforced disappearance

196. Inter-State mutual legal assistance may be based on multilateral treaties or bilateral treaties or be an ad hoc arrangement. In the absence of a specific useful treaty, Senegalese legislation permits the broadest possible mutual legal assistance, subject to reciprocity.

197. Senegal has signed many agreements on legal cooperation at the regional level (with the member countries of the Economic Community of West African States and the African Union) and at the international level (France, the United States of America, etc.).

198. Senegal is also a member of the International Criminal Police Organization (INTERPOL) and has been very active in inter-State police cooperation.

199. In 2007, the Senegalese legislature added title XIV, entitled “Relations with the International Criminal Court”, to the Code of Criminal Procedure. It focused specifically on mutual legal assistance under the Rome Statute of the International Criminal Court (Act No. 2007-5 of 12 February 2007, arts. 677-1 to 677-23 of the Code of Criminal Procedure).

200. In any event, Senegal may agree to cooperate in a criminal case, including in a case of enforced disappearance.

B. Specific examples of such mutual assistance

201. To date, no application of this article has been reported for acts characterized as enforced disappearance.

Article 15

A. Any new agreement that the State party has entered into or amended in order to provide mutual assistance to victims of enforced disappearance and facilitate the search for their whereabouts

202. No agreement has been concluded for the specific purpose of mutual assistance to victims of enforced disappearance in particular.

203. Reference is made to the general comments on international cooperation in criminal matters under article 14 of the Convention and also to the relevant facts regarding all disappearances provided in the comment in respect of article 24 of the Convention. The measures of support and assistance to victims described include appropriate international mutual assistance in cases of enforced disappearance through reporting, contacts during the investigation, reactions in cases where the missing person is located and cooperation with organizations assisting the families and friends of the missing person. Information on disappearances is thus centralized and circulated in accordance with the wish expressed by the international community in article 15 of the Convention.

B. Cases in which this kind of cooperation has been granted and measures taken for that purpose

204. No example of cooperation regarding facts said to be related to an enforced disappearance has been reported.

Article 16

A. Domestic legislation with regard to such prohibition, including, in addition to enforced disappearance, the risk of other forms of serious harm to life and personal integrity

205. Before ratifying the Convention, Senegal was already bound by the principle of non-refoulement under the terms of the international instruments to which it is a party, namely: the Convention relating to the Status of Refugees of 28 July 1951 (art. 33), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or

Punishment of 10 December 1984 (art. 3) and the African Charter on Human and Peoples' Rights (art. 12).

206. The prohibition against transferring a person under Senegalese jurisdiction to another State when there are substantial grounds for believing that that person will be exposed to a real risk of harm, particularly to life or physical integrity, applies in time of peace as in time of armed conflict, regardless of the legal basis, the form (extradition, refoulement, transfer, etc.) and the modes of transfer. This is an international standard which takes precedence over domestic law and whose direct applicability is not open to doubt.

B. Possible impact of legislation and practices concerning terrorism, emergency situations, national security or other grounds that the State may have adopted

207. Not applicable.

C. Authority that determines the extradition, expulsion, removal or refoulement of a person, criteria applied and procedure followed

(a) Extraditions

208. Extraditions are always preceded by a request for extradition. Before a decision is taken concerning extradition (in the form of an order of the indictment division), the individual is arrested at the behest of the Attorney-General or a member of the Attorney-General's office and undergoes an examination to establish identity, of which a report is drawn up. The individual is then transferred as soon as possible and held at the short-stay prison within the jurisdiction of the relevant appeals court. The rest of the procedure is provided for under the aforementioned articles 13 to 18 of the Code of Criminal Procedure.

(b) Right of asylum

209. The right of asylum applies to any foreign refugee in Senegal within the meaning of Act No. 68-27 of 24 July 1968 on the status of refugees and article 1 of the Convention relating to the Status of Refugees of 28 July 1951, as supplemented by the protocol adopted by the General Assembly of the United Nations on 16 December 1966. For each step of the asylum procedure, the claimant is required to apply to the National Commission on Eligibility, which is presided by a judge and consists of representatives of the relevant main services and the representative of the United Nations High Commissioner for Refugees, who sits as an observer.

(c) Refoulement

210. This procedure applies to any foreigner who does not meet the conditions required for entry into Senegal. Pursuant to article 1 of Decree No. 71-860 of 28 July 1971, any foreigner who wishes to gain admission to the territory of Senegal must present:

- A valid passport or travel document;
- An entry visa, unless exempt;
- One of the guarantees of repatriation provided for under title IV of the Decree or one of either a return or round-trip ticket or a ticket for a destination outside Senegal;
- An international vaccination certificate required under health regulations.

211. Any foreign person who does not meet these conditions is subject to refoulement at the expense of the carrier that accepted him or her as a passenger.

(d) *Removal*

212. Removals target foreigners who have entered Senegal by their own means without fulfilling the conditions for admission. If detained following a verification, they are transported to their point of entry.

(e) *Laissez-passer*

213. This practice was introduced between Senegal and Mauritania in 1992 following peace negotiations after the events of 1989. The laissez-passer is an authorization issued by the border administrative authorities on payment of the equivalent of 50 euros. The authorization permits nationals of both countries to move about freely, provided that they use specific official crossing points.

(f) *Stateless persons*

214. Such persons cannot be subject to removal because of their status, especially since Senegal is a signatory to the Convention relating to the Status of Stateless Persons of 1954 and the Convention on the Reduction of Statelessness of 1961.

(g) *Administrative detention*

215. Administrative detention is a measure preceding refoulement, removal or expulsion. It takes place in facilities of the border police or the Ministry of the Interior.

D. Training received by officers dealing with the expulsion, return or extradition of foreigners

216. Police officers and gendarmes are agents of the State responsible for the expulsion, return or extradition of foreigners resulting from judicial or administrative measures.

217. They are required to uphold human rights and ensure that international and regional instruments ratified by Senegal are observed. They enforce domestic legislation, in particular laws on procedures regarding foreigners at the border.

218. Police and gendarmerie officers are trained in human rights during their basic training. This is a deep-rooted tradition in all academies and training centres.

Article 17

A. Fundamental right to individual liberty, exceptions allowed and safeguards against secret detention

219. Under Senegalese law, all persons under the jurisdiction or in the territory of Senegal have a right to liberty and safety. This rule is enshrined in various international instruments for the protection of fundamental rights ratified by Senegal and in article 7 of the Constitution. Exceptions to individual liberty are permitted only where provided for by law. Moreover, by precisely determining the conditions and the ways in which deprivation of liberty is allowed and by penalizing any violation of those provisions, Senegalese law ensures that deprivation of liberty is an official and visible measure.

220. The following forms of deprivation of liberty are legal in Senegal:

- Administrative detention;

- Police custody of an individual caught in flagrante delicto in order to bring him or her before a competent judge;
- Pretrial detention;
- Imprisonment after final conviction, i.e. judicial detention;
- Court-ordered confinement for medical reasons;
- Placement of young people in closed centres.

221. In all cases, Senegalese law guards against secret detention and confinement by requiring that all persons deprived of liberty be held in officially recognized, regulated and supervised places.

222. Furthermore, article 106 of the Criminal Code engages the criminal responsibility of public officials who have held a person or caused a person to be held outside those places determined by the Government or public authority or who have ordered or committed an arbitrary act or an act that infringes individual liberty. Article 110 of the Criminal Code also punishes public officials responsible for administrative or police functions who refuse or neglect to comply with a legal request to attest to the illegality or arbitrariness of a person's detention, whether in a facility designed for the custody of detainees or elsewhere, and who fail to report the matter to a higher authority.

223. The information requested by the Committee will be provided below in respect of each of the aforementioned forms of deprivation of liberty. Particulars will also be given concerning situations in which the Senegalese authorities are empowered to detain persons outside the national territory.

B. Police custody, pretrial detention and final conviction

(a) Competent authorities and conditions

224. Police custody is a measure whereby officers can keep one or more persons at their disposal. It is rigorously regulated in article 55 et seq. of the Code of Criminal Procedure. All persons held in this manner are informed of the reasons for their detention, its maximum duration and extension, the possibility of receiving assistance from a lawyer in the event police custody is extended and the possibility of seeing a doctor when needed.

225. Police custody is intended to make persons available to the judicial authorities. It can be decided only where there is credible evidence that a person is guilty or that an offence has been committed. Police custody in cases of flagrante delicto is provided for under article 45 et seq. of the Code of Criminal Procedure. The decision to arrest is taken by a senior officer, overseen by the Attorney-General, without prejudice to any interim measures the police may take to prevent the arrested person from absconding.

226. Pretrial detention is ordered by a judge on the basis of a committal warrant. The issuance of the warrant is the responsibility of the investigating judge, in compliance with the substantive and formal conditions established in article 127 et seq. of the Code of Criminal Procedure.

227. Judicial detention, or imprisonment, is the only measure that serves a punitive purpose; it therefore follows a conviction pronounced by a court. Its conditions are mainly governed by the Code of Criminal Procedure (arts. 678 to 707-36).

(b) Registers

228. Senegal strictly monitors the application of procedures related to the custody and treatment of arrested, detained or incarcerated persons.

229. Senegalese law requires that all deprivations of liberty be recorded in official registers.

230. Article 55, paragraph 2, of the Code of Criminal Procedure reads:

Persons held in police custody are under the effective control of the Public Prosecutor, his or her representative or, failing that, the presiding judge of the departmental court vested with the powers of the Public Prosecutor.

In all places where persons are held in custody, officers are required to keep a custody record, which is to be numbered and initialled by the Public Prosecutor, who must appear before any magistrate responsible for monitoring persons in police custody whenever he or she is summoned.

231. Under articles 55 et seq. of the Code of Criminal Procedure, the judicial authorities are vested with the powers to ensure effective monitoring and to impose sanctions. In addition, the Standard Minimum Rules for the Treatment of Prisoners have played an influential role as guidelines for the Senegalese prison system (Decree No. 2001-362 of 4 May 2001 concerning the implementation and adjustment of criminal penalties).

232. Given that public officials are often to blame when torture is committed, which appears to occur most frequently during the initial stages of preliminary investigations, Senegalese legislation provides victims of abuse at the hands of officers while in custody with the possibility of bringing the matter directly before the indictment division of the appeals court. This institution monitors the activities of all police officers in order to identify such abuses and take appropriate measures to punish those who commit them.

233. This mechanism also has a preventive effect in that the indictment division has the authority to strip police officers of their investigative powers.

234. Before this amendment was introduced, only the Attorney-General attached to the appeals court could bring such abuses to the attention of the indictment division.

235. Article 685 of the Code of Criminal Procedure stipulates that the prison administration is responsible for the implementation of judicial decisions regarding prison sentences and pretrial detention, as well as for the custody and maintenance of persons who, in specific cases determined by law, must be placed or kept in detention pursuant to legal decisions.

236. Where prisons are concerned, prison regulations, as set forth in article 694 et seq. of the Code of Criminal Procedure, mandate that every prison keep a register.

237. In accordance with the Standard Minimum Rules for the Treatment of Prisoners, paragraph 7 (1), this register should contain information on the admission, transfer and release of each prisoner, and include the prisoner's signature at each of these stages. The register should also include the authority responsible for the transfer, the maximum duration specified for the detention and the date on which the prisoners can apply for release on parole.

238. Article 694 of the Code of Criminal Procedure reads:

All prisons shall keep a register, which shall be signed and every page initialled by the Attorney-General.

Any person responsible for executing a judgement or a conviction and sentence, an arrest warrant, a committal warrant, a warrant to bring a suspect before the judge when this is to be followed by pretrial detention, or a duly established arrest order is required, prior to handing over the person concerned to the head of

the facility, to have the document he or she is executing entered into the register. Release orders are to be drawn up in front of him or her, and the complete file is to be signed by him or her and the head of the facility, who shall provide him or her with a signed copy.

Where the performance of the penalty is voluntary, the head of the facility shall enter in the register the judgement or the conviction and sentence transmitted to him by the Attorney-General or the Public Prosecutor.

In all cases, the incarceration notice shall be issued by the head of the facility or, depending on the situation, the Attorney-General or the Public Prosecutor.

In the case of release orders, the register shall also include the detainee's date of release and, where applicable, the decision or law justifying the release.

Pursuant to article 695:

No official of the administration may, subject to prosecution and punishment for arbitrary detention, receive or hold a person except pursuant to a judgement, a conviction and sentence, an arrest warrant, a committal warrant, a warrant to bring a suspect before the judge when this is to be followed by pretrial detention, or a duly established arrest order, or without entering the detention in the register provided for in the preceding article.

Article 696 stipulates that, where a detainee utters threats or insults, is violent or breaches disciplinary rules, he or she may be placed alone in a specially equipped cell or even be subjected to means of coercion in cases of rage or serious violence, without prejudice to any prosecution that may ensue.

(c) *Outside contact*

239. The aforementioned law on pretrial detention and the internal prison regulations ensure that detainees have the right to maintain outside contact. All detainees (whether convicted or awaiting trial) have the right to have contact with the outside world within set limits. They may thus correspond by mail with people outside, use the telephone, have contact with their counsel and, in the case of foreigners, with their diplomatic and consular authorities, and receive visits from their families and other persons who have a legitimate interest in them.

240. In addition, outside placement, whereby a prisoner is permitted to be employed outside of the prison to perform tasks approved by the administration, such as the day release scheme run by the sentence adjustment committee, allows prisoners to maintain outside contacts.

241. Similarly, prisoners may obtain permission to leave the prison for a fixed amount of time, which is deducted from the sentence.

242. The objective is to prepare prisoners for professional or social reintegration, maintain family ties or enable them to fulfil an obligation that requires their presence.

(d) *Remedies*

243. The investigating judge reviews the legality, lawfulness and necessity of pretrial detention on the first appearance of the detainee. Subsequently, the judge may re-evaluate its necessity at the request of the detainee or on his or her own initiative. Decisions of the investigating judge can be appealed before the indictment division. Prison sentences imposed by first instance courts can be appealed in accordance with the Code of Criminal Procedure.

244. As regards the remedies available to other persons, it is to be noted that any individual who suspects that a person has been unlawfully deprived of liberty, and hence that an offence has been committed, may report it, lodge a complaint and, if he or she has suffered harm because of that offence, bring criminal indemnification proceedings.

(e) *Supervisory authorities*

245. Places of deprivation of liberty can be inspected by various authorities: the sentence enforcement judge, members of the prison advisory committee on the adjustment of sentences, the investigating judge, prosecutors, the presiding judge and members of the indictment division, members of the prison administration and members of the police internal oversight bodies.

246. In an effort to meet the country's international commitments, in particular those contained in the Optional Protocol to the Convention against Torture, which Senegal ratified on 20 September 2006, the National Assembly adopted Act No. 2009-13 of 2 March 2009 on the establishment of a new torture prevention mechanism called the National Observatory of Places of Deprivation of Liberty.

247. The Act was drafted in close collaboration with civil society to fulfil the obligation of States parties to set up national torture prevention mechanisms. The goals of this institution, which enjoys full autonomy, include preventing acts of torture in detention centres and ensuring that these centres meet international standards.

248. Pursuant to Act No. 2009-13 of 2 March 2009 on the establishment of the National Observatory of Places of Deprivation of Liberty and implementing decree No. 2011-842 of 16 June 2011, the mandate of the National Observatory is to:

- Visit, at any time, any place in the territory of Senegal subject to its jurisdiction or control where persons deprived of their liberty are or may be held on the order of, at the instigation of or with the explicit or tacit approval of a public authority, as well as any health establishment that admits patients committed without their consent;
- Issue advice and recommendations to the public authorities;
- Make suggestions to the Government regarding possible amendments to relevant legal and regulatory provisions.

249. The National Observatory will be the main point of contact of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

250. The director of the National Observatory is assisted in the exercise of his or her functions by deputies of his or her choosing and administrative staff. The State has also provided headquarters and a starting budget.

251. In order to ensure the director's complete independence from the executive branch, article 12 of Decree No. 2011-842 of 16 June 2011 implementing Act No. 2009-13 of 2 March 2009 on the establishment of the National Observatory of Places of Deprivation of Liberty provides for budgetary autonomy, independence from other State entities, a non-renewable five-year mandate that cannot be prematurely terminated and the authority to recruit his or her own administrative staff.

252. All of these provisions prevent and dissuade persons from arbitrarily depriving others of their liberty, as well as ensure that those who breach them are punished.

(f) Complaints

253. Decisions regarding detention conditions can be contested before the prison governor or the director of the prison administration.

254. They can also be brought before the sentence enforcement judge or the prison advisory committee on the adjustment of sentences of the place of detention.

255. Decisions of an administrative nature can be brought to the administrative chamber of the Supreme Court.

C. Court-ordered confinement for medical reasons*(a) Competent authorities and conditions*

256. The presiding judge of the juvenile court deliberating in chambers can decide to send a child to a health-care facility.

257. In addition, the Drug Code provides for mandated treatment for habitual users.

(b) Registers, outside contact and complaints

258. The rules that apply to persons detained in prisons also apply to other detained persons.

(c) Remedies

259. Decisions by the investigating judge to deny release on bail can be appealed.

(d) Supervisory authorities

260. For internment facilities under the authority of the Ministry of Justice (prisons, social rehabilitation centres), the supervisory authorities are the same as those for prisons.

261. For other places of detention, the National Observatory of Places of Deprivation of Liberty has effective competence.

D. Administrative detention of foreigners in an irregular situation*(a) Competent authorities and conditions*

262. Article 2 of Decree No. 71-860 of 28 July 1971 reads:

Entry visas for Senegal are issued by the Ministry of the Interior and, by proxy, by Senegalese diplomatic or consular officials or persons vested with the power to represent Senegal in this domain. Such visas are granted with or without prior consultation of the Ministry of the Interior, under the conditions set by it.

263. Entry visas indicate the period of either the residence permit or the permission to settle that has been granted to the foreigner.

264. If, at the border, a foreigner does not meet the requirements for admission to and sojourn in Senegalese territory, he or she will be subject to refoulement, at the expense of the carrier that accepted him or her as a passenger. If immediate refoulement is not possible, the foreigner may be authorized to stay temporarily in the town of arrival, at the expense and under the responsibility of the carrier, which is required to return him or her across the border as promptly as possible.

265. Foreigners who entered Senegal by their own means are returned to the point of entry.

266. Articles 34 to 38 of the aforementioned decree of 28 July 1971 regulate the expulsion of foreigners from Senegal:

Expulsion of a foreigner is decided by order of the Ministry of the Interior. The order sets the date by which the foreigner will be forced to leave the country, if he or she has not already done so. The period begins on the date on which the person concerned is notified of the expulsion order.

The notification of an expulsion order results in the immediate withdrawal of the foreigner's identity card.

An expulsion order may, where appropriate, be rescinded in the same manner. Notification of a decision to rescind results in the restitution of the identity card of the person concerned.

In cases where an expulsion measure is decided after a final conviction, it becomes effective only after the sentence is served.

The period set in the expulsion order begins on the date of the prisoner's release.

In cases where a foreigner subject to an expulsion order is materially unable to leave the country, he or she may be required, on the decision of the Ministry of the Interior, to reside in a designated place and to report periodically to the police station or gendarmerie in the area where he or she resides, until such time as he or she is able to leave.

Any foreigner who has been subject to an expulsion order is barred from returning to Senegal if the order has not first been rescinded.

267. Act No. 71-10 of 25 January 1971 on the conditions of admission, stay and settlement of foreigners stipulates that:

A foreigner may be expelled if convicted of an offence or if his or her general behaviour and actions lead to the conclusion that he or she does not wish to adapt to the established order, in cases of serious and proven interference in the internal affairs of Senegal or if he or she can no longer fulfil his or her own needs and those of his or her family.

268. The Act further states that a foreigner who is subject to an expulsion measure is required to leave the country within the time allotted in the expulsion decision. Failure to do so results in refolement, without prejudice to the penalties set forth in article 11 of the Act, which reads:

The penalty of 2 months' to 2 years' imprisonment or a fine of 20,000 to 100,000 CFA francs or both shall apply to a foreigner who:

- Enters or returns to Senegal despite a prohibition of which he or she had been notified;
- Sojourns or settles in Senegal without the requisite authorization or after the period specified in the authorization has expired;
- Obtains an authorization to sojourn or settle by providing false guarantees of repatriation or withholding essential facts, without prejudice to the penalties set forth in articles 137 and 138 of the Criminal Code.

269. In conclusion, foreigners can be deprived of their liberty while awaiting expulsion on the grounds listed above.

270. Detention is not, however, systematic. It is a measure of last resort when the person concerned may pose a threat to public order or national security or does not meet the conditions for admission defined in Decree No. 71-860 of 28 July 1971.

(b) Registers

271. Foreigners awaiting expulsion who are held in police facilities are entered in the relevant register.

272. Lastly, any foreigner whose presence in the country is known to the Ministry of the Interior is provided with an identity card for foreigners.

(c) Outside contact

273. Foreigners in administrative detention have access to consular and medical assistance, among others.

274. Contact with the outside world is not limited to these contexts. The right to a private and family life is generally guaranteed.

(d) Remedies

275. Foreigners can challenge an expulsion order before the judicial system. They can bring a complaint for abuse of authority before the Supreme Court, which has a suspensive effect in respect of the expulsion decision.

(e) Supervisory authorities

276. External actors such as prosecutors and the National Observatory of Places of Deprivation of Liberty have access to police stations.

(f) Complaints

277. Foreigners may file a complaint in the same way as Senegalese nationals if they are victims of offences such as torture or ill-treatment.

E. Placement of young people in closed centres

278. Minors at risk or in conflict with the law may be placed temporarily, or pursuant to a court decision, in a hospital, medical or medical and educational establishment or a boarding school for school-age offenders. They may also be placed in a public or private remand home.

279. In addition, the Drug Code provides for mandated treatment for habitual users.

(a) Competent authorities and conditions

280. A minor is sent before the prosecutor if he or she is in danger or has committed an offence. The prosecutor can decide to refer the minor to the juvenile court. In accordance with article 565 et seq. of the Code of Criminal Procedure, the juvenile court assesses whether the minor, for his or her recovery or rehabilitation, can be placed in a closed health-care establishment or a social rehabilitation centre.

281. Minors have a right to be heard before the judge renders a decision and in the context of any subsequent decisions.

282. In each placement decision regarding a minor, the judge is required to set the duration of the placement, which is included in a temporary custody order or judgement.

283. Thus, a young person can be placed in a closed facility only on the basis of a judicial decision.

(b) *Registers*

284. Young people who are placed in a facility are entered in the juvenile court register and that of the facility. It is therefore simple to obtain information about them.

(c) *Outside contact*

285. Minors who are placed in a closed centre remain in contact with their families. They can also be granted leave to visit them.

(d) *Remedies*

286. Decisions of the juvenile court can be appealed or set aside.

287. Minors can appeal any decision of the judge, whether an order or a judgement, and any prohibition on visiting a parent or person responsible for their upbringing.

288. It should be noted that custody decisions can always be amended to reflect changes in a minor's situation.

(e) *Supervisory authorities*

289. Remand homes are public institutions and are therefore subject to inspection by the administrative authority under which they fall. Prosecutors, judges and social services can also ensure that services are run effectively and efficiently.

290. Social rehabilitation centres are under the authority of the department of correctional education and social protection.

(f) *Complaints*

291. Naturally, a minor placed in a closed centre has the right to have his or her lawyer or parents file grievances regarding his or her living conditions and rights.

F. Maritime piracy

292. Act No. 2002-22 of 16 August 2002 on the Merchant Marine Code addresses issues related to rights of the defence (appeals against disciplinary sanctions, disciplinary board) and the new offences stemming from the obligation to protect persons and goods (security) and nature and the environment (marine pollution).

293. The Merchant Marine Code vests the captains of ships registered in Senegal to arrest and detain alleged pirates in order to bring them before the Senegalese or foreign judicial authorities.

294. When a Senegalese warship takes part in an anti-piracy operation, a temporary holding cell is set up aboard to hold alleged pirates until they can be handed over to the judicial authorities or released. In all circumstances, persons deprived of their liberty are treated humanely and are entitled to respect for themselves, their honour, convictions and religious practices. They also have a right to a sufficient amount of good quality food and water. Medical assistance can be provided immediately. Access to a lawyer is possible if proceedings are initiated in Senegal.

G. Prisoners of war in military operations abroad

295. The Ministry of the Armed Forces incorporates obligations under Senegalese law and international instruments, first and foremost the Geneva Conventions of 1949 and the additional protocols thereto, into the instructions given to Senegalese forces engaged in operations abroad.

296. Whenever a person is detained during a military operation, a detailed report is made to the command structure. The procedures regarding the treatment of detained persons explicitly set out the information to be provided to external organizations, particularly the International Committee of the Red Cross.

297. Military personnel trained in international humanitarian law can serve as legal counsel and are, insofar as possible, deployed on missions in support of the military command. They are therefore in a position to draw the command's attention to any act or procedure that infringes international and/or national law.

298. In addition, the conditions of detention, release and transfer and procedures for contacting the diplomatic or local authorities are described in practical instructions in the case of an international command structure.

Article 18

A. Legislation guaranteeing the right of third parties to access information

299. The access of third parties to information that may prevent the enforced disappearance of a person deprived of liberty is guaranteed.

300. In cases of administrative detention, the law provides that police officers who implement this measure will inform the prosecutor to whom they report as soon as possible.

301. The Code of Criminal Procedure regulates police custody and pretrial detention in cases of arrest in flagrante delicto. The Code requires police officers to inform the Public Prosecutor immediately when a suspect is placed in police custody. In cases of pretrial detention, any person deprived of liberty has the right to instruct a lawyer and may receive legal assistance to that end.

302. Decree No. 66-1081 of 31 December 1966 on the organization and regulation of prison facilities, amended and supplemented by Decrees Nos. 68-583 of 28 May 1968 and 86-1466 of 28 November 1986 and Act No. 2000-39 of 29 December 2000 on prison sentences, regulates prisoners' contact with the outside world.

303. Senegalese law thus gives greater attention to the right of persons deprived of liberty to notify than to that of third parties to be notified. This right seems then to suggest a perspective different from that of article 18 of the Convention and to have, at first sight, a more limited scope, since the information is given to certain public officials and to a trusted person and not to "any person with a legitimate interest in this information", as required by the Convention.

304. Nevertheless, the aforementioned provisions are to be considered in conjunction with the fact that places of deprivation of liberty are supervised by legally designated authorities and that any person with a legitimate interest may seek essential information concerning the detention either from the detainee's counsel — who will be able to provide such information while respecting the detainee's privacy — or directly from the detainee, who has the right to outside contacts (see comments under article 17 of the Convention). The purpose to be served by article 18, as commented on by jurists, is thus fulfilled.

305. The same reasoning is valid for foreigners held in pretrial detention, since they freely maintain contact with their counsel and with their families (see comments made in respect of article 17 of the Convention).

306. The balance thus struck between informing the detained person's relatives and respecting his or her privacy brings to mind article 36 of the Vienna Convention on

Consular Relations, which provides for the activation of consular protection at the request of the person deprived of liberty.

307. If a person with a legitimate interest does not obtain the desired information through the above-mentioned mechanisms, he or she still has the possibility of doing so by being recognized as a claimant for criminal indemnification in accordance with the procedures described in the comment made in respect of article 24 of the Convention.

B. Any restrictions

308. Under article 103 of the Code of Criminal Procedure, “When an investigating judge deems it necessary to prohibit communication by an accused person, the prohibition may be imposed for no more than 10 days. In no case may the prohibition apply to the accused’s counsel.”

309. The general restrictions that may be imposed on the communications of those deprived of their liberty under this article of the Code of Criminal Procedure correspond to the exceptions permitted under article 20, paragraph 1, of the Convention.

310. It should be made clear that there is no restriction on the right of suspects arrested in the course of maritime piracy operations to inform a trusted person or their family if they so wish. Furthermore, they are given the possibility of instructing a lawyer in accordance with article 101 of the Code of Criminal Procedure. The agreement of the investigating judge is required to postpone such communication for so long as is needed to protect the interests of the investigation or until their arrival in Senegal. The judge is required to take a reasoned decision based on the risk of loss of evidence, the risk of collusion and the risk of evasion of justice.

C. Legislation to ensure the protection of persons who request access to information and persons who are involved in the investigation

311. Persons likely to request information concerning an individual’s deprivation of liberty are, like all individuals, protected from intimidation and acts of violence punishable under the Criminal Code. As for the protection of persons involved in the investigation, reference may be made to the comments made in respect of article 12 of the Convention, paragraph E.

Article 19

A. Procedures to obtain, use and store genetic data and medical information

312. Identification through genetic analysis in criminal proceedings is not yet regulated by law in Senegal. However, there is a bill on the establishment of a genetic fingerprint bank, under which a national genetic databank is to be established to provide law enforcement and national security agencies with an effective tool for the identification of suspected perpetrators of criminal acts and other designated offences and to increase the effectiveness of searches for missing persons. The bill’s objectives are:

- To use DNA testing to identify genetic fingerprints and facilitate the arrest and conviction of perpetrators of crime;
- To use genetic profiling to quickly exonerate individuals not involved in a particular crime;

- To facilitate the search for missing people and children through the missing persons database;
- To ensure that data and bodily samples collected are used only to establish genetic profiles for the purposes of the bill, any other use being excluded;
- To protect and maintain the confidentiality of the personal data stored in the bank.

B. Provisions for the protection of personal data

313. In addition to the confidentiality of the preliminary inquiry (Code of Criminal Procedure, arts. 49, 50 and 55 bis) and the investigation, as well as professional secrecy (Criminal Code, art. 363), the protection of personal data gathered during an inquiry or during deprivation of liberty is guaranteed under article 17 of the International Covenant on Civil and Political Rights and Act No. 2012 of 25 January 2008 on the protection of personal data. Access to medical data is regulated by Ministry of Health and Preventive Medicine Order No. 005776/MSP/DES of 17 July 2001 establishing a patients' charter for public hospitals, article 7 of which provides that "patients have the right to privacy... and the confidentiality of their personal medical and social information".

314. It should be noted that there is a commission for the protection of personal data tasked with informing those concerned and those responsible for data processing of their rights and responsibilities and ensuring that information and communication technology does not threaten public freedoms and the right to privacy.

C. Genetic databanks

315. No genetic databanks currently exist. As already indicated, the creation of a national bank is under consideration.

316. However, there is a molecular medicine diagnosis and research centre in Dakar that specializes in human identification. It is the first private human identification centre in Africa. It was founded in 2003 and received International Organization for Standardization (ISO) certification in 2009. It has a specialist molecular biology laboratory that can undertake medical and biological analysis and identify individuals through DNA testing. The centre provides a range of services, including:

- Medical analysis;
- Crime scene analysis;
- DNA testing for rape cases;
- DNA testing for murder cases;
- DNA testing for theft cases;
- DNA testing for missing person cases;
- DNA databanks.

317. The police and gendarmerie use its services, as do the public and private sectors, for example insurance companies, sickness insurance institutions and embassies.

Article 20

A. Possible restrictions on access by third parties to the information referred to in article 17 of the Convention

318. See comments made in respect of article 18 of the Convention, part B.

B. Available remedies

319. In cases of administrative detention, the law does not provide for judicial recourse against the decision, whether reasoned or not, of a police officer not to accede to the request by the person concerned to notify a trusted person. This does not mean, however, that the decision can be taken arbitrarily, since police action may be subject to several kinds of oversight, including by internal and external monitoring services, the Public Prosecutor's Office and investigating judges. A third party may apply to the National Observatory of Places of Deprivation of Liberty regarding information to which that third party has not had access.

320. In cases of pretrial detention, a judicial remedy may be sought against a reasoned order of the investigating judge to extend the ban on communication with a trusted person beyond the 10-day limit. However, the same law grants accused persons the right to file a request with the indictment division ruling on their pretrial detention for an amendment to or the lifting of any measures that may restrict their communication with other persons.

321. While Senegalese law does not provide for a specific judicial remedy for third parties seeking access to the information referred to in article 18, paragraph 1, of the Convention, it does however ensure that any person who suspects that an offence has been committed has the right to report it, to file a complaint and, if the person has suffered harm because of the offence, to bring criminal indemnification proceedings or to declare himself or herself an injured party.

Article 21**A. Legislative provisions allowing verification of actual release**

322. Senegalese law ensures actual release, as required by article 21 of the Convention, through a variety of measures such as the recording of the release in the official registers mentioned in the comment made in respect of article 17 of the Convention, including prison registers in penitentiary facilities, and notification of the person concerned and his or her lawyers.

323. As for persons arrested by members of the Senegalese armed forces under an international warrant, they are, where appropriate, released in accordance with international law and the procedures in force applicable to military operations abroad (United Nations, African Union, Economic Community of West African States). The principle of non-refoulement as defined in the comments made in respect of article 16 is strictly observed.

B. Competent authorities responsible for supervising the release in accordance with domestic legislation and applicable international law

324. The release of detainees may be supervised by national penitentiary, judicial and, where appropriate, military authorities. It is subject to internal monitoring by higher officers. It may also be subject to outside monitoring by various international institutions whose competence has been recognized by Senegal, for instance the International Committee of the Red Cross if the detention occurred during an international armed conflict.

Article 22

A. **Legislation applicable to the guarantee that any person deprived of his or her liberty or any other person with a legitimate interest be entitled to take proceedings before a court**

325. Senegalese law guarantees the right of all persons deprived of liberty to bring proceedings to challenge the lawfulness of the decision resulting in the said deprivation of liberty. Reference is made in this connection to the comments made in respect of article 17 of the Convention.

326. This is a right embedded not only in Senegalese law, but also in international instruments for the protection of fundamental rights to which Senegal is a party, such as the African Charter on Human and Peoples' Rights.

B. **Mechanisms in place to prevent: (i) unlawful deprivation of liberty, (ii) failure to record the deprivation of liberty, and (iii) refusal to provide information on the deprivation of liberty or the provision of inaccurate information, and sanctions laid down**

327. Obstruction of justice is punishable by criminal, disciplinary or statutory penalties, as described in the comment made in respect of article 7 of the Convention.

328. Public officials who have unlawfully or arbitrarily arrested or caused to be arrested, detained or caused to be detained one or more persons, or who, while having the power to do so, have neglected or refused to put an end to an unlawful detention brought to their knowledge, or who have refused to display their registers as required by the law, are thus held to be criminally responsible under the Criminal Code.

329. The Code of Criminal Procedure engages the criminal responsibility for arbitrary detention of any guard who omits to record a deprivation of liberty in his or her registers or who refuses either to show the detainee in situations where the law so requires or to display his or her registers.

C. **Legislation ensuring that orders prescribing, authorizing or encouraging enforced disappearance are prohibited and that persons who refuse to obey such orders will not be punished**

330. See comments made in respect of article 6 of the Convention, part B.

Article 23

A. **Training programmes**

331. In the discharge of their duties, the personnel of police services, penitentiary institutions, closed facilities for minors and the Senegalese armed forces remain subject to Senegalese and international legal norms and consequently to the human rights provisions incorporated therein.

332. These provisions are put into effect through a code of ethics, a code of conduct or rules of procedure for some of these personnel, and through initial and continuing training for all personnel.

333. This training does not deal specifically with the Convention. Nevertheless, in learning about the legal framework, personnel also learn about the prohibition of acts that constitute, contribute to or may give rise to an enforced disappearance. The

criminal, disciplinary and statutory penalties for failing to comply with those standards are also addressed.

334. Information about the training received by law enforcement personnel has already been provided by Senegal in its reports to the Committee against Torture. That information remains relevant.

335. With regard more particularly to armed forces personnel, it is to be noted that they receive training in international humanitarian law, human rights and criminal law. While they do not yet receive specific training on the International Convention for the Protection of All Persons from Enforced Disappearance, it is addressed in general training.

B. Duty to report cases of enforced disappearance

336. Article 32 of the Code of Criminal Procedure provides that “The Public Prosecutor receives complaints and accusations and determines the action to be taken on them. Any duly constituted authority or public official or civil servant who, in the discharge of his or her duties, learns of a felony or a misdemeanour must immediately report it to the Public Prosecutor and transmit all relevant information and records.”

337. Furthermore, article 48 of the Criminal Code provides for a sentence of “between 2 months’ and 3 years’ imprisonment or a fine of between 25,000 and 1 million CFA francs, or both,” for “anyone who, being aware that an offence has been attempted or committed, fails to promptly notify the administrative or judicial authorities while it is still possible to prevent or mitigate the effects of the offence, or where there is reason to believe that one or more of the perpetrators may commit further offences that could be prevented by reporting the offence”.

338. Article 110 of the Criminal Code, already commented upon, contains similar provisions.

339. That means that public officials who learn of an offence are required to report it immediately to the Public Prosecution Service. Felonies or misdemeanours found to have been committed within a place of deprivation of liberty may be reported directly through the Public Prosecutor or the National Observatory of Places of Deprivation of Liberty.

Article 24

A. Care and assistance to victims and involvement of victims in searches

340. Significant attention is given to victims during criminal proceedings, irrespective of their status. The definition of victim includes any natural or legal person who has suffered harm as a result of an offence.

B. Genetic data

341. Senegalese law does not provide for mechanisms for the systematic collection of ante-mortem data related to disappeared persons and their relatives. However, there are plans to establish a genetic databank in Senegal, which could include provision for such mechanisms.

C. Rights of victims

342. Any victim of an injury caused by an offence may bring criminal indemnification proceedings in accordance with articles 1 to 5 of the Code of Criminal Procedure and thus become a party to the proceedings. The victim may also claim damages in

accordance with article 71 of the Code of Criminal Procedure and then be granted specific rights, including that of access to information at the various stages of the criminal proceedings.

343. The right to obtain reparation is enshrined in the aforementioned articles of the Code of Criminal Procedure and in article 44 of the Criminal Code. With regard to reparations for unlawful detention, Senegal is bound by the Code of Obligations of Public Servants. Any administrative error or error committed by an official when discharging his or her duties is punishable and may confer a right to compensation as set by the administrative courts.

344. However, as part of ongoing reforms, it is possible that provision will be made for the payment of reparations from a special fund for assisting victims of intentional acts of violence when they cannot be effectively and adequately paid by the perpetrator or the person having third person liability.

D. Legal regime of missing persons

345. The Family Code provides for two sets of rules in regard to disappeared persons. Article 16 of the Family Code gives the following definitions: “A missing person is anyone whose existence has become uncertain because no news has been received from him or her. A disappeared person is anyone whose absence occurred in circumstances that put his or her life at risk, without his or her body having been found.”

346. It follows from the wording of article 2 of the Convention that the rights and obligations referred to in paragraph 6 of article 24 of the Convention in respect of disappeared persons and their relatives will be ensured only in the light of the applicable regime of missing persons.

347. The regulations applicable to missing persons are set out in articles 16 to 23 et seq. of the Family Code.

348. The legislator has divided the legal regime pertaining to missing persons into three very different stages: the request for a declaration of presumed absence (Family Code, art. 17), the declaration of presumed absence (Family Code, art. 21) and the declaration of absence itself (Family Code, art. 22). Each of these stages corresponds to the passing of a particular period of time from when the person went missing (one year after the last news of the missing person was received in the case of the request for a declaration of presumed absence; one year after the request was lodged for the declaration of presumed absence; and two years after the judgement declaring presumed absence for the declaration of absence).

349. Over the course of time, the chances of a missing person being alive become increasingly slim, making it necessary to change the ways in which the interests involved are to be protected. While the balance is weighted in favour of the missing person during the presumed absence stage, it is weighted rather in favour of relatives during the stage of declaration of absence.

350. For each stage, the Family Code determines such public announcements as are required to seek and locate the disappeared person.

(a) Requests for declarations of presumed absence

351. Several protection mechanisms for persons presumed absent are provided for under Senegalese law, as reflected in articles of the Family Code:

Once more than a year has passed since the last news of the missing person was received, any interested party or the Public Prosecution Service may lodge a

request for a declaration of presumed absence. This is done by filing an application before the regional court nearest the last known address of the person presumed missing or his or her most recent place of residence. The application shall then be transmitted to the prosecutor, who shall launch an investigation into the fate of the person presumed missing and shall take all appropriate steps to publicize the application, including through the print and broadcast media and abroad, where appropriate. Once the application is filed, the court shall appoint a temporary property administrator, who may be the missing person's spouse, a guardian responsible for representing his or her interests, a representative appointed by him or her or any other person of the court's choosing. If there are minor children, the court shall place them under statutory administration or guardianship. Immediately upon assuming his or her duties, the temporary administrator shall draw up an inventory of the property belonging to the person presumed absent and submit it to the registry of the regional court. He or she has the power to carry out protective, purely administrative transactions. If there is a duly recognized urgent need, he or she may be authorized to undertake transactions to dispose of assets under statutory conditions. At any time and at the request of the Public Prosecution Service or any interested party, the temporary administrator may be dismissed and replaced in the manner in which he or she was appointed.

(b) *Declarations of presumed absence*

352. Under article 21 of the Family Code:

One year after the application has been filed, the court may, depending on the results of the investigation, issue a declaration of presumed absence. That declaration upholds the effects of the application and extends them until the declaration of absence is made.

353. In view of the interests involved, the legislator has provided for a series of mechanisms to publicize any decision concerning missing persons.

(c) *Declarations of absence and declarations of death of missing persons*

354. Under article 22:

Two years after the issuance of the declaration of presumed absence, an application may be filed with the court for a declaration of absence. That declaration of absence allows the spouse to petition for divorce on the grounds of absence. The powers of the temporary administrator are extended to include disposal of the missing person's assets for consideration. However, prior to any privately negotiated disposal of assets, the temporary administrator shall value the property on the order of the president of the court. Ten years after the last news of the missing person was received, any interested party may file a request for the declaration of his or her death with the court that issued the declaration of absence. The prosecutor shall carry out a supplementary investigation. The death shall be declared on the date of the judgement, which is entered in the civil register of the missing person's last place of residence, in the margin of his or her birth certificate and, if applicable, his or her marriage certificate. The matter of inheritance in relation to the missing person who has been declared dead shall be addressed in his or her last place of residence.

355. The legal effects of the declaration of the death of the missing person in respect of property and matters other than property are set out in articles 26 to 28 of the Family Code:

Declarations of death of missing and disappeared persons have the same weight as death certificates. If the missing person returns before the declaration of his or her death is made, he or she shall recover all of his or her property as soon as he or she claims it and the temporary administrator shall report on its management. Duly concluded sales of property are enforceable. If the missing or disappeared person reappears after the declaration of his or her death is made, he or she may recover his or her property in whatever condition it is found but may not claim any property that has been sold. If the missing person reappears after the declaration of his or her death, any new marriage of his or her spouse is enforceable. The same is true when a divorce has been granted to the spouse after the declaration of absence is made. Regardless of when a missing or disappeared person reappears, his or her children cease to be subject to statutory administration or guardianship. In the case of divorce or remarriage that is enforceable against the reappearing spouse, the judge shall rule on the custody of children in their best interests.

E. Associations of victims

356. Under article 12 of the Constitution, all persons enjoy the right of association. Additionally, special laws grant associations and NGOs that are recognized as working in the public interest and that may be approved for such purposes the right to assist victims in certain procedures.

Article 25

A. Legislation

357. Several kinds of conduct contributing to the enforced disappearance of a child are classified as offences under the Criminal Code, namely:

- The kidnapping of a minor (Criminal Code, arts. 346 to 349);
- Child neglect (Criminal Code, art. 341);
- Fraudulent activities related to data attesting to a child's identity and to the re-establishment of a child's identity: forgery (arts. 194 and 195) and falsification of a child's civil status records (arts. 361 to 363);
- Abduction or concealment of a child, concealment of birth, substitution of one child for another, attribution of a child to a woman who has not conceived and family abandonment (arts. 338 to 350 of the Criminal Code).

B. Mechanisms in place for the search for and identification of disappeared children and procedures to return them to their families of origin

358. The search for and identification of missing children are not specifically governed by law or regulations. However, as in the case of adults, crimes committed against children are punishable by law and, as a result, the search for them and their identification form an integral part of the investigations opened.

C. Procedures guaranteeing the right of disappeared children to have their true identity re-established

359. Under article 30 of the Family Code, "All births, marriages and deaths are registered in the form of an entry in the civil register. Other events or changes in personal status are noted in those registers."

360. The civil registry is monitored by departmental court judges and the Public Prosecutor. Article 37 of the Family Code governs irregular declarations, providing that:

Civil registry officials are required to receive all declarations to be included in register entries. If they suspect a statement to be unlawful, they must immediately inform the Public Prosecutor who, if necessary, shall undertake a correction or a status action.

361. If a charge of forgery or serious tampering with a record leads to a conviction, the civil status records concerning the child are completely invalidated and must be reconstituted. Reconstitution will automatically be ordered by the correctional court. However, the record of a person that has not been established by civil registration can only be reconstituted — or constituted if such a record has never been formally established — by means of a judicial decision to declare civil status, in accordance with the procedural principles set out in the Code of Criminal Procedure and the Family Code. The decision will serve in lieu of a civil status record once it has been entered in the registers of the current year with a marginal note showing the date when it should have been included.

362. Since this is a matter of public order, the Public Prosecution Service is competent to take action to re-establish — or to establish — the child's civil status record.

D. Programmes to assist adults who suspect that they are children of disappeared parents to establish their true identity

363. The Convention on Protection of Children and Cooperation in respect of Intercountry Adoption has been signed and ratified by Senegal. However, it has not been fully transposed into domestic law through legislative reform. As part of reforms to the adoption system, it is envisaged that the competent authorities must be careful to preserve the information they hold concerning the origins of the adopted person in order to enable that person to discover his or her origins, and that they must ensure that the adopted person or his or her representative has access to that information and is given appropriate guidance.

364. If need be, a procedure may be initiated to recognize or establish paternity in accordance with applicable domestic law.

E. Procedures in place to guarantee families their right to search for child victims of enforced disappearances; procedures in place to review and, if necessary, annul adoption of children that originated from an act of enforced disappearance

(a) Adoption

365. The Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption of 29 May 1993, which entered into force on 1 May 1995, has been signed and ratified by Senegal. However, that has not yet led to the amendment of the range of regulations governing adoption, both domestic and intercountry. However, under Senegalese law, in particular the Family Code, the founding principles of adoption are as follows: adoption must be on good grounds; and if it concerns a child, the adoption can take place only in the child's best interests and with due regard for the child's fundamental rights under international law.

366. Under the aforementioned Convention, international adoption may be carried out only with the consent of the central authority. However, such an authority has not yet been established in Senegal.

367. The absence of a central authority means that cooperation with host countries to assess the situation of Senegalese children subject to intercountry adoption is difficult.

368. In Senegal, there are two kinds of adoption: simple and full.

369. Simple, or limited, adoption, in which there continue to be links with the biological family, is possible for children and adults alike. Indeed, under article 244 of the Family Code:

Limited adoption is permitted without restriction as to the age of the adopted person. An adoptee over the age of 15 years must personally give consent to the adoption.

370. It may be revoked for very serious reasons. The request for revocation may be filed by the adopters, by the adopted person, or if the latter is still a minor, by the Public Prosecutor. Indeed, article 253 of the Family Code stipulates that:

Adoption may be revoked, if justified by serious reasons, by a court order at the request of the adopter, the adopted person or, if the latter is still a minor, the Public Prosecutor. However, revocation requests are not admissible when the adopted person is under the age of 15. The judgement of the competent court under ordinary law, issued after ordinary proceedings and a hearing with the Public Prosecution Service have taken place, must be reasoned. Once the appeals process has been exhausted, the Public Prosecutor's Office launches the proceedings set out in article 58, paragraphs 1 and 5, to enter the additional information in the margin of the birth certificate. Revocation ends all future effects of the adoption. Property given to the adopted person by the adopter is returned to him or her, or his or her heirs, in the condition in which it is found on the date of the revocation, without prejudice to the acquired rights of third parties.

371. Full adoption entails the severance of all links with the biological family and is irrevocable (Family Code, art. 243).

372. Where a child has reached the age of 15, his or her consent is required for an adoption to take place (in cases of domestic adoption).

(b) Revocation of adoption

373. The two forms of adoption may be revoked, but only if there is sufficient evidence to show that the adoption occurred following child abduction, sale or trafficking. Revocation may be sought by the Public Prosecution Service or by a person belonging to the family council.

374. If the evidence is shown to be founded, the court rules that the adoption shall cease to produce its effects from the time that the operative part of the revocation decision has been entered in the civil status registers.

375. Articles 840 et seq. of the Family Code relate to the application of the law itself and to conflicts in law in Senegal.

376. Article 844 of the Family Code states that:

Legitimate filiation and legitimization are regulated by the law governing the legal effects of marriage. Natural filiation is governed by the national law on mothers and, in cases of recognition, by the law on fathers. If a child and his or her supposed parents hold different nationalities, the legislation applicable to the child shall be used. In the event of a change in a child's nationality resulting from the establishment of his or her filiation, he or she may decide which legislation is applicable whenever is best for him or her. The conditions for

adoption imposed on the adopter and the adopted person are governed by the respective national laws applicable to them. They must fulfil the conditions set out in both sets of legislation when those conditions apply to both of them. When an application for adoption is made by two spouses, the conditions imposed on the adopters are governed by the law on the legal effects of marriage. The legal effects of adoption are governed by the national law of the person adopting and, when adoption is agreed to by two spouses, by the law on the legal effects of marriage.

377. Moreover, under article 853 of the Family Code, the Senegalese courts are competent to decide on the revocation of an adoption, on condition that the adopter, one of the adopters or the adopted person is Senegalese or is habitually resident in Senegal at the time of the filing of the application, if the adoption was established in Senegal or if a judicial decision establishing the adoption was recognized or declared enforceable in Senegal.

378. In conclusion, the Senegalese courts would be competent to decide on the revocation of an adoption established in Senegal or abroad following an enforced disappearance. The Public Prosecution Service would even be under an obligation to act. Following the revocation of the adoption, the competent public authorities in Senegal would be required to take appropriate measures in respect of the child, as dictated by his or her best interests.

(c) *Annulment of adoption*

379. Action for annulment cannot be brought in the case of an adoption. Rather, Senegalese legislation allows for revocation on justified grounds. An adoption may not be annulled in Senegal, even where permitted in the legislation of the State where it was established. Similarly, a decision of a foreign authority annulling an adoption cannot produce effects in Senegal.

380. The principle of revocation rather than annulment enhances legal certainty and prevents it from being too easy to have second thoughts about an adoption; instances of fraud had been noted in that connection in practice. However, no obstacle is thereby created to the possibility of reconsidering an adoption obtained by reprehensible means, given that recourse may be had to the revocation procedure.

F. Cooperation with other States in the search for or identification of children of disappeared parents

381. See the comments made in respect of article 14 of the Convention.

G. National legislation and procedures that guarantee that in all actions concerning children, whether undertaken by public institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

382. Senegal has ratified the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child which provide that the best interests of the child shall be paramount in any decision concerning the child.

383. With regard more particularly to adoption, the Family Code provides that it may only take place if there are good grounds and if it is beneficial to the adopted person. Furthermore, the law adds that children whose mother and father or the family council have duly consented to adoption and children who have been declared abandoned may be adopted. All of these articles refer to the best interests of the child in all filiation proceedings.

H. How children capable of forming their own views have the right to express those views freely in all matters related to enforced disappearance which are affecting them

384. In general, the new Code of Criminal Procedure stipulates that, in any procedure affecting a minor capable of forming his or her own views, the minor in question may be heard; it also lays down the procedures to be followed in that connection.

I. Statistical data on cases of enforced disappearance

385. No such statistics have been compiled by the Senegalese authorities.
