



COSEDDH

Republic of Senegal
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**Submission by CIVICUS: World Alliance for Citizen Participation,
NGO in General Consultative Status with ECOSOC
And
Coalition Sénégalaise des Défenseurs des Droits Humains (COSEDDH)
And
West African Human Rights Defenders Network (WAHRDN/ROADDH)**

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1. Introduction

- 1.1 CIVICUS is a global alliance of civil society organisations (CSOs) and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, CIVICUS has members in over 180 countries throughout the world.
- 1.2 COSEDDH (Coalition Sénégalaise des Défenseurs des Droits Humains – Senegalese Coalition of Human Rights Defenders) is a platform that aims to promote the work and protection of defenders and whistleblowers. COSEDDH brings together around 20 organisations¹ working in the field of human rights and peace.
- 1.3 The West African Human Rights Defenders Network (ROADDH) is a CSO that works to promote the work of human rights defenders (HRDs). It is made up of national coalitions of human rights and individual focal points. It has Observer Status at the African Commission on Human and Peoples' Rights and is a member of the Executive Committee of the NGO Forum at the Commission.
- 1.4 In this submission, the three organisations examine the Government of Senegal's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse Senegal's fulfilment of the rights to freedoms of association, peaceful assembly and expression and unwarranted restrictions on HRDs since its previous UPR examination in November 2018. We assess Senegal's implementation of recommendations received during the 3rd UPR cycle relating to these issues and provide follow-up recommendations.
- 1.5 During the 3rd UPR cycle, the Government of Senegal received nine recommendations relating to the space for civil society (civic space). Eight were accepted and one was noted. An evaluation of a range of legal sources and human rights documentation addressed in this submission demonstrates that the Government of Senegal has not implemented the recommendations relating to civic space. Acute implementation gaps were found with regard to freedoms of expression and peaceful assembly.
- 1.6 As a result of these issues, civic space in Senegal is currently classified as 'obstructed' by the CIVICUS Monitor, indicating the existence of significant civic

¹ The members are: Amnesty International, Senegal, RADDHO, ONDH, AGED, ANAFA, RADI, GRA REDDHEP, LSDH, SIDH Senegal, le CAEDHU, l'OFADDEC, 3D, le RECIDDHUP/CONGAD, l'ANAFA and AFDEAA.

space restrictions.²

- Section 2 of this submission examines Senegal's implementation of UPR recommendations and compliance with international human rights standards concerning freedom of association.
- Section 3 examines the protection of HRDs, civil society activists and journalists.
- Section 4 examines freedom of expression and media freedom.
- Section 5 examines freedom of peaceful assembly.
- Section 6 contains recommendations to address the concerns raised and advance implementation of recommendations under the 3rd cycle.
- Section 7 is an annex on the implementation of 3rd cycle UPR recommendations related to civic space.

2. Freedom of association

- 2.1** During Senegal's examination under the 3rd UPR cycle, the government received one recommendation on freedom of association and creating an enabling environment for CSOs.
- 2.2** Articles 8 and 12 of the 2001 Constitution guarantee the right to freedom of association. Article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Senegal is a state party, also guarantees freedom of association. Although Senegal has a generally favourable legal framework, recent counterterrorism laws have introduced worrying restrictions.
- 2.3** Associations and NGOs are governed by the 1968 Civil and Commercial Obligations Code and Decrees No. 96-103 and No. 2015-145. While the legal framework can be considered generally favourable, article 12 of the constitution outlines that associations 'whose purpose or activity is contrary to criminal laws or directed against public order are prohibited'. LGBTQI+ associations are therefore prohibited from legally establishing themselves, since Penal Code article 319 criminalises same-sex relations, punishable with up to five years in prison.³
- 2.4** On 25 June 2021, the National Assembly approved two draft laws⁴ amending the Penal Code and Code of Criminal Procedure, with the aim of 'reinforcing the fight against terrorism', containing restrictive provisions that could adversely affect civic freedoms, including freedom of association. Under article 45-1 of Law 10/2021 amending Law No. 65-60 of 21 July 1965 on the Penal Code, legal persons other than

² CIVICUS Monitor: Senegal, <https://monitor.civicus.org/country/senegal>.

³ 'Senegal', Civic Freedom Monitor, International Center for Not-for-Profit Law, <https://www.icnl.org/resources/civic-freedom-monitor/senegal>.

⁴ Law 10/2021 amending Law No. 65-60 of 21 July 1965 on the Penal Code; Law 11/2021 amending Law No. 65-61 of 21 July 1961 on the Criminal Procedure Code.

the state and its components, such as associations, are criminally liable for offences committed on their behalf by their bodies or representatives. If found guilty of 'violence or assault committed against people and the destructions and degradations committed during gatherings' (article 279-1 (3)) (see also section 5.9) organised by CSOs, the provisions allow for the confiscation of the property of the organisation and its leader, a permanent ban or a ban for up to five years from professional or social activities, and other penalties.

- 2.5** A decree signed by the Minister of Interior on 5 November 2018 withdrew a decree authorising the creation of the foreign association Lead Afrique francophone, banning its activities in Senegal. Authorities did so on the grounds of 'irregular financing' that benefited the Y'en a marre social movement.⁵

3. Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists

- 3.1** Under Senegal's previous UPR examination, the government received three recommendations on the protection of HRDs, journalists and civil society representatives. All three recommendations were accepted but none were implemented.

- 3.2** Article 12 of the UN Declaration on Human Rights Defenders mandates states to take the necessary measures to ensure the protection of HRDs. The ICCPR further guarantees freedoms of association, peaceful assembly and expression. However, in spite of these protections, HRDs and journalists have been regularly arrested and prosecuted.

- 3.3** In recent months, an increased number of HRDs and journalists have been subjected to arrests and prolonged pretrial detention. Several journalists, particularly those reporting on the judicial prosecution of opposition leader Ousmane Sonko, who was accused of rape in March 2021, were arrested and charged with offences such as 'insulting magistrates', 'spreading false news' and national security charges. On 24 May 2023, Serigne Saliou Guèye, editor of Yoor Yoor, was arrested for 'insulting magistrates' and 'usurpation of the profession of journalist', following the publication of an editorial by an anonymous magistrate on the justice system and the judicial process of the Sonko case.⁶ Guèye was provisionally released on 20 June

⁵ 'Sénégal: Lead Afrique francophone se voit retirer son agrément par les autorités', Radio France Internationale (RFI), 17 November 2018, <https://www.rfi.fr/fr/afrique/20181117-senegal-retrait-agrement-lead-afrique-francophone-mouvement-citoyen-y-marre>.

⁶ 'Arrestation du journaliste Serigne Saliou Gueye: vers l'ouverture d'une information judiciaire', PressAfrik, 26 June 2023, https://www.pressafrik.com/Arrestation-du-journaliste-Serigne-Saliou-Gueye-vers-l-ouverture-d-une-information-judiciaire_a257797.html ; 'Le journaliste Serigne Saliou Guèye déféré au parquet (avocat)', 24 May 2023, <https://aps.sn/le-journaliste-serigne-saliou-gueye-defere-au-parquet-avocat>.

2023 and remains under judicial control.⁷

- 3.4** On 4 March 2023, Pape Ndiaye, journalist and court reporter for Walf TV, was placed in custody after being summoned by police for statements he made during the TV show 'Petit-dej', alleging that 19 substitutes for the Dakar's prosecutor's office were in favour of dismissing Sonko's case.⁸ He was charged with six offences.⁹ Ndiaye was provisionally released and remains under judicial control. Both Ndiaye and Guèye are prohibited from speaking about their cases and leaving the territory without authorisation and have to present themselves to the prosecutor's office on the first Friday of every month under their bail conditions.¹⁰
- 3.5** On 6 November 2022, investigative journalist Pape Alé Niang of news site Dakar Matin was detained in relation to a live-streamed video claiming that the contents of an internal report from the national gendarmerie reportedly exonerated Sonko.¹¹ Niang, who went on hunger strike on 2 December 2022, was provisionally released on 14 December 2022 and placed under judicial supervision.¹² On 19 December 2022, he was rearrested for reportedly having violated his bail conditions. Niang was accused of having discussed his prosecution during a Facebook Live broadcast, something denied by his lawyers. Niang went on a new hunger strike and was admitted to hospital on 24 December 2022.¹³ On 10 January 2023, Niang was released on bail and placed under judicial supervision.¹⁴

⁷ 'Justice: Les journalistes Pape Ndiaye et Serigne Saliou Guèye libérés sous contrôle judiciaire', Dakaractu, 20 June 2023, https://www.dakaractu.com/Justice-Les-journalistes-Pape-Ndiaye-et-Serigne-Saliou-Gueye-liberes-sous-contrôle-judiciaire_a234788.html.

⁸ 'Au Sénégal, les journalistes inquiets après une nouvelle arrestation dans le cadre de l'affaire Ousmane Sonko', Le Monde, 8 March 2023, https://www.lemonde.fr/afrique/article/2023/03/08/au-senegal-les-journalistes-inquiets-apres-une-nouvelle-arrestation-dans-le-cadre-de-l-affaire-ousmane-sonko_6164695_3212.html.

⁹ The six charges were: 'dissemination of false news', 'endangering the lives of others', 'insulting magistrates', 'intimidation and reprisals against a member of the judiciary', 'provocation of a crowd' and 'speech discrediting a judicial act'. Ibid.

¹⁰ 'Justice: Les journalistes Pape Ndiaye et Serigne Saliou Guèye libérés sous contrôle judiciaire', Dakaractu, 20 June 2023, https://www.dakaractu.com/Justice-Les-journalistes-Pape-Ndiaye-et-Serigne-Saliou-Gueye-liberes-sous-contrôle-judiciaire_a234788.html.

¹¹ 'Senegalese Journalist Arrested on National Security Charges', Voice of America, 7 November 2022, <https://www.voanews.com/a/senegalese-journalist-arrested-on-national-security-charges-/6823933.html>. On 9 November 2022, Niang was charged with 'disseminating false news likely to discredit state institutions', 'receiving confidential administrative and military documents' and 'revealing information likely to harm national defence'. See 'RSF calls for Senegalese investigative reporter's release', Reporters without Borders, 10 November 2022, <https://rsf.org/en/rsf-calls-senegalese-investigative-reporter-s-release>.

¹² 'Senegalese journalist Pape Alé Niang released on bail with ban on foreign travel, speaking about the case', Committee to Protect Journalists (CPJ), 15 December 2022, <https://cpj.org/2022/12/senegalese-journalist-pape-ale-niang-released-on-bail-with-ban-on-foreign-travel-speaking-about-case>.

¹³ 'UN envoy calls for release of jailed journalist on hunger strike in Senegal', The Guardian, 6 January 2023, <https://www.theguardian.com/global-development/2023/jan/06/jailed-journalist-hunger-strike-senegal-pape-ale-niang>.

¹⁴ 'Sénégal: le journaliste Pape Alé Niang remis en liberté provisoire', RFI, 10 January 2023, <https://www.rfi.fr/fr/afrique/20230110-s%C3%A9gal-le-journaliste-pape-al%C3%A9-niang-remis-en-libert%C3%A9-provisoire>.

- 3.6** Journalists critical of authorities have also been targeted with arrest and judicial harassment. On 29 July 2019, Criminal Investigations Division officers arrested freelance journalist Adama Gaye over a series of Facebook posts criticising the President Macky Sall’s management of the gas and oil sector, and a post alleging that the president had an extramarital affair.¹⁵ Gaye was charged with ‘insulting the head of state’ and ‘compromising state security’ under Penal Code articles 80 and 254 before his provisional release on 20 September 2019.¹⁶ Gaye denied having written some posts, including the post about the alleged affair, and believes his Facebook account might have been compromised.¹⁷
- 3.7** On some occasions, journalists and media workers have been subjected to physical attacks by both state and non-state actors, particularly during protests and in the context of elections. On 5 November 2022, police officers reportedly physically assaulted camera operator Fatou Dione from Buur News while covering a protest in Dakar organised by the Collective for the Liberation of Political Prisoners (COLIDEP).¹⁸
- 3.8** In the months leading up to Senegal’s July 2022 legislative elections, attacks on journalists soared, perpetrated by political figures, political supporters and security forces.¹⁹ DakarBuzz journalist Ndeye Ngoné Diop was physically attacked and verbally abused by supporters of the ruling presidential coalition, Benno Bokk Yakaar (BBY). The incident occurred after Diop asked a question during a BBY press conference following the Constitutional Court’s decision to allow opposition coalition Yewwi Askan Wi to modify its list of election candidates after it was initially rejected by the national electoral commission.²⁰

¹⁵ ‘IPI calls for immediate release of Senegal journalist Adama Gaye’, International Press Institute, 6 September 2019, <https://ipi.media/ipi-calls-for-immediate-release-of-senegal-journalist-adama-gaye>; ‘Urgent: Le journaliste Adama Gaye placé en garde à vue’, PressAfrik, 29 July 2019, https://www.pressafrik.com/Urgent-Le-journaliste-Adama-Gaye-place-en-garde-a-vue_a203209.html.

¹⁶ ‘Senegalese authorities arrest critical journalist Adama Gaye’, CPJ, 9 August 2019, <https://cpj.org/2019/08/senegalese-authorities-arrest-critical-journalist->; ‘Sénégal: le journaliste Adama Gaye remis en liberté provisoire’, RFI, 21 September 2019, <https://www.rfi.fr/fr/afrique/20190921-senegal-journaliste-adama-gaye-remis-liberte-provisoire>.

¹⁷ ‘“Offence au Président” sénégalais: Adama Gaye livre sa version des faits’, RFI, 5 September 2019, <https://www.rfi.fr/fr/afrique/20190905-senegal-proces-journaliste-adama-gaye-poursuivi-offense-president>; ‘Journalist remanded in custody over Facebook post’, Media Foundation for West Africa (MFWA), 31 July 2019, <https://www.mfwa.org/country-highlights/journalist-remanded-in-prison-custody-over-facebook-post>.

¹⁸ ‘Senegal: Police assault female journalist’, MFWA, 15 February 2023, <https://www.mfwa.org/country-highlights/senegal-police-assault-female-journalist>; ‘Sénégal: une camerawoman agressée par la police, un journaliste arrêté’, International Federation of Journalists, 8 November 2022, <https://www.ifj.org/media-centre/news/detail/category/end-impunity-2022/article/senegal-une-camerawoman-agressee-par-la-police-un-journaliste-arrete>.

¹⁹ ‘Senegal: Protect journalist safety during parliamentary election’, International Press Institute, 25 July 2022, <https://ipi.media/senegal-protect-journalist-safety-during-parliamentary-election>.

²⁰ ‘Leader of Senegal’s ruling party apologises to journalist’, MFWA, 13 June 2022, <https://ifex.org/leader-of-senegals-ruling-party-apologises-to-journalist>.

3.9 In apparent attempts at intimidation, HRDs are regularly detained and judicially harassed, particularly HRDs who are vocal critics of authorities. Activist Guy Marius Sagna of the Front for a popular anti-imperialist and pan-African revolution (FRAPP – France Dégage) movement has been detained several times in recent years over his criticism of authorities. On 20 February 2021, Sagna was arrested on accusations of ‘criminal conspiracy’, ‘participating in an insurrection’ and ‘threatening to disturb public order’ after alleging that supporters of opposition party Pastef, who were arrested earlier in February 2021, were subjected to torture and ill-treatment.²¹ Sagna was provisionally released on 24 March 2021.²² On 2 October 2021, Sagna was rearrested for a Facebook post criticising the gendarmerie. On 14 October 2021, a court in Dakar handed Sagna a three-month suspended prison sentence and a fine of 200,000 CFA francs (approx. US\$332) for ‘spreading false news’ and ‘discrediting an institution’.²³

3.10 Civil society staff members have also been targeted. On 15 January 2021, Boubacar Sèye, president of CSO Horizons Sans Frontières, was arbitrarily detained at Blaise Diagne International Airport in Dakar on returning from a foreign trip, on accusations of ‘dissemination of false news’.²⁴ The accusations related to Sèye’s demands for accountability over funds disbursed by the European Union to fight irregular emigration in a media interview in October 2020.²⁵ Sèye was provisionally released on 3 February 2021.²⁶

3.11 HRDs have also often been arrested in relation to the organisation of and participation in protests. On 22 October 2022, police in Dakar arrested Babacar Diouf, programme manager of the CSO Lumière Synergie pour le Développement and 25 members of a community affected by a Regional Express Train project for allegedly having discussed the organisation of a peaceful protest to demand their

²¹ ‘Senegal. Amnesty International Report 2021/2022’, Amnesty International, 29 March 2022, <https://www.amnesty.org/en/documents/pol10/4870/2022/en>.

²² ‘Senegalese activist released, calls for exit of big French retail companies’, Africanews, 26 March 2021, <https://www.africanews.com/2021/03/26/senegalese-activist-released-calls-for-exit-of-big-french-retail-companies>.

²³ ‘Au Sénégal, l’activiste Guy Marius Sagna va pouvoir sortir de prison’, RFI, 14 October 2021, <https://www.rfi.fr/fr/afrique/20211014-au-s%C3%A9n%C3%A9gal-l-activiste-guy-marius-sagna-va-pouvoir-sortir-de-prison>; ‘Guy Marius Sagna condamné à 3 mois de sursis et 200 000 F CFA d’amende’, Pulse, 14 October 2021, <https://www.pulse.sn/news/societe/guy-marius-sagna-condamne-a-3-mois-de-sursis-et-200-000-f-cfa-damende/fnjx0f4>.

²⁴ ‘Boubacar Sèye, président de Horizons sans Frontières, arrêté’, Dakar Matin, 15 January 2021, <https://www.dakarmatin.com/boubacar-seye-president-de-horizon-sans-frontieres-arrete>.

²⁵ ‘L’ONG Horizon sans Frontière crie à des actes d’intimidation répétés sur son président’, Senepius, 16 January 2021, <https://www.senepius.com/societe/long-horizon-sans-frontiere-crie-des-actes-dintimidation-repetes>; ‘Sénégal. Boubacar Seye, le president de l’ONG Horizons sans Frontières, doit être libéré’, Amnesty International, 26 January 2021, <https://www.amnesty.org/fr/latest/press-release/2021/01/senegalboubacarseyehorizons>.

²⁶ ‘Boubacar Sèye de Horizon sans Frontières (HSF) en liberté provisoire’, Impact.sn, 3 February 2021, https://www.impact.sn/Boubacar-Seye-de-Horizon-sans-frontieres-HSF-en-liberte-provisoire_a24654.html.

right to fair compensation for their displacement. The 26 were held for two nights before being transferred to the prosecutor's office, which extended their custody for three additional nights on charges of public disorder. They were released on 27 October 2022.²⁷

3.12 Rapper and activist from the Nittu Deugu movement, Abdou Karim Gueye, was arrested on 25 February 2019 after having streamed a live video on social media calling for people to join him in a protest following an unofficial announcement of the results of the 2019 presidential elections. On 4 March 2019, a court in Dakar sentenced Gueye to a one-month suspended prison sentence and a fine of 50,000 CFA francs (approx. US\$83) for 'calling for an unauthorised protest without weapons' and 'insults by means of press'.²⁸

4. Freedom of expression and media freedom

4.1 Under the 3rd UPR cycle, the government of Senegal received six recommendations relating to freedom of expression and media freedom. It accepted five and noted one. However, none of the recommendations has been implemented.

4.2 ICCPR article 19 guarantees the right to freedoms of expression and opinion. Articles 8 and 10 of the constitution also guarantee freedom of expression, albeit with restrictions on grounds of public order and honour. However, in policy and practice, freedom of expression is restricted through provisions in the 2017 Press Code, the Criminal Code and the 2021 anti-terrorism laws.

4.3 The Press Code²⁹ was adopted by the National Assembly on 20 June 2017, replacing the 1996 Law on the Organs of Social Communication and the Profession of Journalist and Technician.³⁰ It was signed into law by President Sall on 6 January 2021.³¹ While the initial objective of developing a new and comprehensive media law was laudatory, restrictive provisions were retained in the law's final version, despite a long process of consultation with media and civil society stakeholders.

4.4 Press Code articles 224 and 225 foresee prolonged prison sentences of three to five years and high fines of 5 to 30 million CFA francs (approx. US\$8,300 to US\$50,000),

²⁷ 'Senegal: 26 people arrested for peacefully discussing how to demand fair compensation in the context of a train project', Coalition for Human Rights in Development, 26 October 2022, <https://rightsindevelopment.org/news/senegal-26-people-arrested-for-peacefully-discussing-how-to-demand-fair-compensation-in-the-context-of-a-train-project>.

²⁸ 'Human Rights in Africa: Review of 2019', Amnesty International, 8 April 2020, <https://www.amnesty.org/en/documents/afr01/1352/2020/en>.

²⁹ Loi N°14/2017 portant Code de la Presse.

³⁰ Loi de 1996 relative aux organes de communication sociale et à la profession de journaliste et de technicien.

³¹ 'Entrée en vigueur du Code de la presse au Sénégal: RSF demande des amendements', RSF, 8 January 2021, <https://rsf.org/fr/entr%C3%A9e-en-vigueur-du-code-de-la-presse-au-s%C3%A9n%C3%A9gal-rsf-demande-des-amendements>.

for press offences. According to article 192, administrative authorities can, without a prior judicial decision and in 'exceptional circumstances', shut down or suspend media outlets or programmes on the grounds of 'threats to national security', a broad term open to interpretation. Additionally, article 5 states that journalists have free and unhindered access to all information, but this is subject to the need to respect defence secrecy, secrecy of investigation and regulations applicable to access to some sites or structures. Further, article 78 stipulates that the distribution and sale of foreign newspapers and publications can be banned through a jointly motivated decision of the Minister of the Interior and Minister of Communication. Additionally, article 227 allows for the restriction of access to online content deemed to be 'contrary to morality', 'degrade honour' or be 'patently unlawful' in certain cases.

- 4.5** Press Code articles 71, 73 and 194 further mandate publishers and editors to be able to demonstrate at least seven years and 10 years respectively of experience as a journalist. Failure to do so can be punished with a prison sentence of three months to one year and a fine of 100,000 to 1 million CFA francs (approx. US\$166 to US\$1,668).
- 4.6** Penal Code article 254 stipulates punishments for the offence of insulting the president, with prison sentences of between six months and two years and a fine of 100,000 to 1,500,000 CFA francs (approx. US\$166 to US\$2,490). Article 255 punishes the publication, dissemination, disclosure or reproduction of false information or falsified pieces with a jail sentence of between one and three years and a fine of between 100,000 and 1,500,000 CFA francs (approx. US\$152 to US\$2,490), when this is deemed to result in disobedience of laws, damages the good spirit of the nation or discredits public institutions or their operation.
- 4.7** Penal Code articles 259 to 263 make defamation a criminal offence, with punishments of prison sentences of four months to two years and fines of between 200,000 and 1,500,000 CFA francs (approx. US\$332 to US\$2,490) when the defamation is targeted against courts, the army, the public administration, government and National Assembly members and officials and others. Article 262 states that insulting such institutions or persons can lead to prison sentences of between one and three months and a fine of 20,000 to 100,000 CFA francs (approx. US\$33 to US\$166).
- 4.8** The counterterrorism laws approved in June 2021 contain restrictive provisions that could adversely affect freedom of expression and media freedom. Article 279-1 of Law 10/2021 defines 'terrorist acts' in an overly broad and vague way and includes 'offences linked to information and communication technologies', punishable with life in prison. Law 10/2021 could also be used to restrict freedom of expression and media freedom through the new criminal offence, in article 279-8, of 'inciting others'

to commit terrorism, as the law lacks a definition of incitement. Law 11/2021 also grants additional powers to police for surveillance of terrorism suspects without prior court authorisation.

4.9 Since the protests of March 2021, in which 14 people were killed (see 5.7), authorities have suspended media outlets, particularly Walf TV, on several occasions for their protest coverage. On 9 June 2023, Walf TV was officially notified of the suspension of its programmes for a period of 30 days, in effect since 1 June 2023.³² That day, the broadcast signal was cut, on the orders of the Minister of Communication, without prior notice as required by Press Code article 192, interrupting coverage of protests and violence following the conviction of Ousmane Sonko.³³ Authorities accused Walf TV of ‘dissemination of images of violence exposing minors, accompanied by subversive and hateful remarks undermining the stability of the State’ in its coverage of the protests.³⁴ A few months earlier, on 10 February 2023, the broadcaster was suspended by national media regulator Conseil National de Régulation de l’Audiovisuel (CNRA) for a period of seven days for ‘irresponsible coverage’ of opposition protests and clashes in Mbacké ‘by repeatedly broadcasting images of violence exposing adolescents, accompanied by dangerous remarks, including from reporters, in total violation of the regulations’.³⁵

4.10 On the evening of 4 March 2021, after a day of protests and clashes following Sonko’s arrest (see 5.7), the CNRA suspended Walf TV and Sen TV for a period of 72 hours for having ‘persisted in (their) logic of violation of the regulations by broadcasting images of violence over and over’.³⁶ CNRA had warned on 3 March 2021 against the dissemination of content ‘explicitly or implicitly condoning violence’, ‘inciting public disturbances’ or ‘likely to constitute a threat to national stability or social cohesion’.³⁷

4.11 Authorities have, in the face of mass protests, also disrupted or cut access to internet and social media. On 4 June 2023, amid widespread protests and violent clashes

³² ‘Sénégal: la chaîne Walf TV suspendue pour un mois’, RFI, 10 June 2023, <https://www.rfi.fr/fr/afrique/20230610-s%C3%A9n%C3%A9gal-la-cha%C3%Aene-walf-tv-suspendue-pour-un-mois>.

³³ ‘Senegal: Amnesty International calls for independent enquiry into deadly crackdown on protests’, Amnesty International, 9 June 2023, <https://www.amnesty.org/en/latest/news/2023/06/senegal-amnesty-international-demande-une-enquete-independante-sur-la-repression-meurtriere-lors-des-manifestations>.

³⁴ ‘Sénégal: la chaîne Walf TV suspendue pour un mois’, RFI, 10 June 2023, <https://www.rfi.fr/fr/afrique/20230610-s%C3%A9n%C3%A9gal-la-cha%C3%Aene-walf-tv-suspendue-pour-un-mois>.

³⁵ ‘Décision portant suspension de la diffusion des programmes de Walf TV’, Conseil National de Régulation de l’Audiovisuel, 10 February 2023, <http://www.cnra.sn/do/decision-portant-suspension-de-la-diffusion-des-programmes-de-walf-tv>.

³⁶ ‘Sénégal: un mort dans des manifestations de soutien à l’opposant Ousmane Sonko’, Le Figaro, 4 March 2021, <https://www.lefigaro.fr/international/senegal-un-mort-dans-des-manifestations-de-soutien-a-l-opposant-ousmane-sonko-20210304>.

³⁷ Ibid.

infringement on freedoms and all voluntary interference with the exercise of a freedom are punished by the law'. However, in policy and practice, the grounds of 'preserving public order' are often invoked by local administrations to ban peaceful assemblies. On numerous occasions, security forces have used excessive force, including live ammunition, against protesters, resulting in the killing of dozens of people.

- 5.3** Freedom of peaceful assembly is regulated through a 'declaration' or 'notification' regime, with only advance notification of at least 72 hours required to the administrative authorities where the protest is supposed to take place.⁴⁵ However, local authorities have broad powers to ban protests through a notification and often invoke the grounds of 'preserving public order' to ban protests by CSOs and opposition parties. Those participating in a banned or unnotified assembly can be penalised with a prison sentence of one to three years and a fine of between 100,000 and 500,000 CFA francs (approx. US\$166 to US\$831), which can be increased to a two-to-five-year sentence and higher fines if the accused is an organiser of the protest.⁴⁶
- 5.4** Local and national authorities also sometimes impose restrictions on the time, place and manner of assemblies. Order 7,580 of 20 July 2011 issued by the Minister of the Interior, known as the Ousmane Ngom Order, forbids political protests in Dakar city centre. In a positive development, the Court of Justice of the Economic Community of West African States ruled on 31 March 2022 that Order 7,580 violates freedoms of expression and peaceful assembly and must be repealed.⁴⁷ The Court, responding to a complaint filed by Amnesty International Senegal and Ligue Sénégalaise des Droits de l'Homme (LSDH), further stated that the Order is 'unduly broad and vague' and 'has taken on an indefinite character'.⁴⁸ However, the Order has not yet been repealed.
- 5.5** Protest arrests are frequent, with protesters often charged with 'participation in an unauthorised protest'. On 3 November 2022, the prefect of Dakar issued an order prohibiting a COLIDEP protest planned for 5 November 2022 to demand the release of political prisoners, using grounds of 'risks to the disturbance of public order' and 'hindrance to the free circulation of people and goods'.⁴⁹ Despite the ban, people attempted to gather on 5 November 2022 and were met by police officers who reportedly cornered off the location and arrested at least 17 people for contravening

⁴⁵ Article 96 of the Penal Code, Loi n° 2016-29 novembre modifiant la loi n° 65-60 du 21 juillet portant Code pénal.

⁴⁶ Article 97 of the Criminal Code, Loi n° 2016-29 novembre modifiant la loi n° 65-60 du 21 juillet portant Code pénal.

⁴⁷ 'Sénégal: La CEDEAO ordonne l'abrogation de l'arrêté « Ousmane Ngom »', Amnesty International Sénégal, 13 May 2023, <https://www.amnesty.sn/senegal-la-cedeao-ordonne-labrogation-de-larrete-ousmane-ngom>.

⁴⁸ Ibid.

⁴⁹ 'Marche pour la libération des "détenus politiques": le préfet de Dakar interdit la manifestation du collectif prévu ce samedi', Dakaractu, 4 November 2022, https://www.dakaractu.com/Marche-pour-la-liberation-des-detenus-politiques-Le-prefet-de-Dakar-interdit-la-manifestation-du-collectif-prevue-ce_a225747.html.

the protest ban.⁵⁰

- 5.6** On 29 November 2019, nine activists from the Noo Lank movement were arrested during a protest outside the Palace of the Republic against an increase in electricity prices and later charged with ‘participation in an unauthorised protest’. Guy Marius Sagna of FRAPP – France Dégagé was additionally charged with ‘provocation of gathering’ and ‘rebellion’.⁵¹ The prefect of Dakar had earlier that day invited the protest organisers to a meeting and asking them to change the protest itinerary. The protest organisers decided to keep the initial itinerary, with the protest ending at the Palace of the Republic, where they wanted to hand over a letter to President Sall.⁵² Some activists were released on bail in December 2019 and 21 January 2020 but Sagna remained in detention for over three months before being released on bail on 3 March 2020.⁵³ On 12 September 2021, several protesters were arrested during a protest against the high cost of living in Guédiawaye, Dakar Region, among them Sagna, who was released later that day.⁵⁴ Local authorities had banned the protest.⁵⁵ Despite another protest ban issued by the prefect of Dakar on grounds of ‘risks to disturb public order’ and ‘obstruction of the free movement of people and goods’, people attempted to protest on 17 September 2021, only to be met by a heavy deployment of security forces, who arrested several protesters.⁵⁶
- 5.7** Security officers have on numerous occasions and with almost complete impunity used excessive force, including lethal force, against protesters. Fourteen people were killed during spontaneous protests and violent clashes that erupted on 3 March 2021 following the arrest of Ousmane Sonko for ‘disturbing public order’ and ‘participation in an unauthorised demonstration’ while on his way to court to respond to a subpoena.⁵⁷ According to Amnesty International, LSDH and Rencontre Africaine pour la Défense des Droits de l’Homme, 12 of those 14 were shot with live

⁵⁰ ‘Pour la Libération Des Détenus Politiques: 20 Membres Du COLIDEP Arrêtés Lors D’une Marche’, MidiActu, 5 November 2022, <https://midiactu.com/pour-la-liberation-des-detenus-politiques-20-membres-du-colidep-arretes-lors-dune-marche>.

⁵¹ ‘Sénégal: le sort du militant Guy Marius Sagna interpelle les députés’, RFI, 2 December 2019, <https://www.rfi.fr/fr/afrique/20191202-senegal-sort-militant-guy-marius-sagna-interpelle-deputes>; ‘Senegal: Nine Activists Jailed for Protesting’, Amnesty International, 11 December 2019, <https://www.amnesty.org/en/documents/afr49/1551/2019/en>.

⁵² Amnesty International, 11 December 2019, op cit.

⁵³ ‘Sénégal: l’activiste Guy Marius Sagna libre, Noo Lank ne lâche pas prise’, Afrik.com, 4 March 2020, <https://www.afrik.com/senegal-l-activiste-guy-marius-sagna-libre-noo-lank-ne-lache-pas-prise>.

⁵⁴ ‘Marche contre la vie chère: Guy Marius Sagna et Cie brutalisés et arrêtés à Guédiawaye (video)’, Senego, 12 September 2021, https://senego.com/marche-contre-la-vie-chere-guy-marius-sagna-et-cie-brutalises-et-arretes-a-guediawaye-video_1320347.html; ‘Information de dernière minute sur l’arrestation de Guy Marius Sagna et Cie’, Dakarmidi.net, 12 September 2021, <https://www.dakarmidi.net/actualite/information-de-derniere-minute-sur-larrestation-de-guy-marius-sagna-et-cie>.

⁵⁵ Ibid.

⁵⁶ ‘Sénégal: des manifestants contre la vie chère arrêtés à Dakar’, RFI, 18 September 2021, <https://www.rfi.fr/fr/afrique/20210918-s%C3%A9n%C3%A9gal-des-manifestants-contre-la-vie-ch%C3%A8re-arr%C3%AAt%C3%A9s-%C3%A0-dakar>.

⁵⁷ ‘Senegal will never forget March 2021’, Amnesty International, March 2022, <https://www.amnesty.org/en/latest/campaigns/2022/03/senegal-will-never-forget-march-2021>.

ammunition by defence and security forces.⁵⁸ Despite promises by the government, in April 2021, to set up an 'independent and impartial' commission to investigate the protests and lethal violence,⁵⁹ this was never established. The complaints filed by the families have not been followed up. On 2 and 3 June 2023, protests and violent clashes broke out in Dakar, Ziguinchor and other localities in Senegal, following the conviction of Sonko, in absentia, to two years in prison for 'corrupting youth'.⁶⁰ According to Amnesty International, at least 23 people died and at least 390 people were injured in the violence. Human rights violations included the use of excessive force, including live ammunition, leading to the loss of life, suspension of access to mobile internet and social networks, interruption of the signal of Walf TV and the presence of armed men dressed in civilian clothes alongside security forces, who were seen in videos circulating on social media attacking protesters violently.⁶¹

5.8 Ahead of Senegal's 31 July 2022 legislative elections, at least three people were killed in opposition protests in Bignona, Dakar and Ziguinchor on 17 June 2022. The protests, organised by Yewwi Aksan Wi against the invalidation of its electoral list by the Constitutional Council, were banned by the prefect of Dakar who used grounds of 'risks to disturb public order' and violations of the Electoral Code, which prohibits any disguised propaganda 30 days before the official start of the electoral campaign.⁶² Despite the ban, people attempted to gather and clashes between security forces and protesters were reported in Dakar and Ziguinchor. ⁶³ Dozens of people – 200 according to Yewwi Aksan Wi – were arbitrarily arrested, including opposition Members of Parliament.⁶⁴ Several people were subsequently charged and in some cases sentenced. The mayor of Guédiawaye, Ahmed Aïdara, was handed a one-month suspended prison sentence and fine for 'participation in an unarmed gathering', Dethié Fall was given a six-month suspended prison sentence for 'participation in a non-authorized protest' while 83 others were acquitted of the same charges.⁶⁵ New protests by the coalition, expected on 29 June 2022, were

⁵⁸ 'Sénégal: un ans après la mort de 14 manifestants, les familles réclament justice', Amnesty International, 3 March 2022, <https://www.amnesty.org/fr/latest/news/2022/03/senegal-un-an-apres-mars-2021-les-familles-reclament-justice>.

⁵⁹ 'Senegalese government announces probe into unrest', Africanews, 9 April 2021, <https://www.africanews.com/2021/04/09/senegalese-government-announces-probe-into-unrest>.

⁶⁰ Senegal: Amnesty International calls for independent enquiry into deadly crackdown on protests', Amnesty International, 9 June 2023, <https://www.amnesty.org/en/latest/news/2023/06/senegal-amnesty-international-demande-une-enquete-independante-sur-la-repression-meurtriere-lors-des-manifestations>.

⁶¹ Ibid.

⁶² 'Sénégal: une manifestation de l'opposition Yewwi Askan Wi prévu ce vendredi interdite à Dakar', TV5 Monde, 17 June 2023, <https://information.tv5monde.com/afrique/senegal-une-manifestation-de-lopposition-yewwi-askan-wi-prevue-ce-vendredi-interdite-dakar>.

⁶³ 'Les heurts de vendredi à Dakar ont fait deux morts', VOA Afrique, 18 June 2022, <https://www.voafrique.com/a/ousmane-sonko-senegal-les-heurts-de-vendredi-%C3%A0-dakar-ont-fait-deux-morts/6622669.html>.

⁶⁴ 'Sénégal. Les autorités menacent le droit de manifester', Amnesty International Sénégal, 29 June 2022, <https://www.amnesty.sn/menaces-sur-le-droit-de-manifester>.

⁶⁵ Ibid.

banned by several local authorities.⁶⁶

- 5.9** The counterterrorism laws approved in June 2021 (see also 2.4, 4.8) contain provisions further restricting freedom of peaceful assembly. Article 279-1 (3) of Law 10/2021, amending the Penal Code, defines ‘violence or assault committed against people and the destructions and degradations committed during gatherings’ as a terrorist act, punishable with life in prison. A previous amendment to the Penal Code in 2016 already made acts such as ‘destruction or degradations committed at rallies’, when associated with unclear notions such as ‘disturbance of the normal functioning of national institutions’, punishable with heavy prison sentences.

6. Recommendations to the Government of Senegal

CIVICUS, COSEDDH and ROADDH call on the Government of Senegal to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

At a minimum, the following conditions should be guaranteed: freedoms of association, peaceful assembly and expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state’s duty to protect. In the light of this, the following specific recommendations are made:

16.1 Freedom of association

- Take measures to foster a safe, respectful and enabling environment for civil society, including by removing legal and policy measures that unwarrantedly limit freedom of association.
- Immediately reinstate any CSOs that have been arbitrarily and unduly sanctioned or deregistered.
- Amend the 2021 counterterrorism laws – Law 10/2021 amending Law No. 65-60 of 21 July 1965 on the Penal Code and Law 11/2021 amending Law No. 65-61 of 21 July 1961 on the Criminal Procedure Code – to remove undue restrictions on freedom of association and bring them into compliance with ICCPR articles 21 and 22.

16.2 Protection of human rights defenders

⁶⁶ ‘Sénégal: les marches prévues par la coalition d’opposition Yewwi Askan Wi reportées’, RFI, 29 June 2022, <https://www.rfi.fr/fr/afrique/20220629-s%C3%A9n%C3%A9gal-les-marches-pr%C3%A9vues-par-la-coalition-d-opposition-yewwi-askan-wi-report%C3%A9es>.

- Provide civil society members, HRDs and journalists with a safe and secure environment for their work, conduct impartial, thorough and effective investigations into all cases of attacks, harassment and intimidation against them and bring the perpetrators of such offences to justice.
- Ensure that HRDs and journalists are able to carry out their legitimate activities without fear or undue hindrance, obstruction, or legal and administrative harassment.
- Undertake a consolidated process of repeal or amendment of legislation and decrees that unwarrantedly restrict the legitimate work of HRDs, in line with the UN Declaration on Human Rights Defenders.
- Immediately and unconditionally release all HRDs, including journalists and bloggers detained for exercising their fundamental rights to freedoms of association, peaceful assembly and expression, and review their cases to prevent further harassment.
- Publicly condemn at the highest levels of government instances of harassment and intimidation of CSOs and activists.
- Systematically apply legal provisions that promote and protect human rights and establish mechanisms that protect HRDs, including by adopting a specific law on the protection of HRDs in accordance with Human Rights Council resolution 27.31.

16.3 Freedom of expression and media freedom

- Ensure freedom of expression and media freedom by all bringing national legislation into line with international standards.
- Review the 2017 Press Code in order to bring it into line with best practices and international standards in the area of freedom of expression. Repeal restrictive provisions, including articles 78 and 192, and decriminalise press offences.
- Reform defamation legislation in conformity with ICCPR article 19.
- Amend the 2021 counterterrorism laws to remove undue restrictions on freedom of expression and bring them into compliance with ICCPR article 19.
- Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics that the government may deem sensitive.
- Take steps to lift restrictions on freedom of expression and adopt a framework for the protection of journalists from persecution, intimidation and harassment.

- Develop an action plan to ensure that internet laws comply with the government's commitment to guarantee freedom of expression and media freedom, including by ensuring free access to electronic media, ceasing censorship and surveillance, liberalising electronic media ownership rules and enabling journalists, bloggers and other internet users to play a full and active role in promoting and protecting human rights.
- Organise inclusive consultations with journalists and the media in order to resolve disputes concerning current media laws.
- Refrain from adopting any laws providing for censorship or undue control over social and conventional media content.
- Refrain from censoring social and conventional media and ensure that freedom of expression is safeguarded in all arenas, including in the arts.

6.4 Freedom of peaceful assembly

- Adopt best practices on the freedom of peaceful assembly, as put forward by the 2012 report of the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, and by General Comment No. 37 on the right to peaceful assembly adopted by the UN Human Rights Committee in 2020.
- Amend the 2021 counterterrorism laws to remove undue restrictions on freedom of expression and bring them into compliance with ICCPR article 21.
- Repeal restrictions on the time, place and organisation of meetings and put an end to bans on demonstrations based on 'risks to disturb public order'.
- Unconditionally and immediately release all protesters, HRDs and journalists detained for exercising their right to freedom of peaceful assembly and review their cases to prevent further harassment.
- Immediately and impartially investigate all instances of extrajudicial killing and excessive force committed by security forces in the context of protests.
- Review and if necessary update existing human rights training for police and security forces, with the assistance of independent CSOs, to foster the more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.
- Publicly condemn at the highest levels all instances of the use of excessive and lethal force by security forces in response to protests, launch formal investigations into such instances and bring the perpetrators to justice.

- Provide recourse to judicial review and effective remedy, including compensation, in cases of unlawful denial of the right to freedom of peaceful assembly by state authorities.

6.5 Access to UN Special Procedures mandate holders

- The Government should extend a standing invitation to all UN Special Procedure mandate holders and prioritise official visits by the: 1) Special Rapporteur on the situation of human rights defenders; 2) Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression; 3) Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association; 4) Special Rapporteur on the independence of judges and lawyers; 5) Special Rapporteur on extrajudicial, summary or arbitrary executions; 6) Special Rapporteur on the right to privacy; and 7) Working Group on Arbitrary Detention.

6.6 State engagement with civil society

- Implement transparent and inclusive mechanisms of public consultations with CSOs on all issues mentioned above and enable the more effective involvement of civil society in the preparation of law and policy.
- Include CSOs in the UPR process before finalising and submitting the national report.
- Systematically consult with civil society on the implementation of UPR recommendations, including by holding periodical comprehensive consultations.
- Incorporate the results of this UPR into action plans for the promotion and protection of all human rights, taking into account the proposals of civil society, and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.