



Legal Country Mapping

For the Rights to Safe Drinking Water and Sanitation and
the link with the Right to a Healthy Environment

SENEGAL

June 2024

Prepared by William Grazebrook, Maha Alali and Felix Mueller based on methodology from Human Right 2 Water

Table of Contents

INTRODUCTION	3
Overview of national water governance for Senegal	4
CHAPTER 1. WATER GOVERNANCE OVERVIEW.....	5
A- Preliminary questions:	5
B- The country is member of a regional integration organisation?.....	7
C- Water governance and administration:	9
CHAPTER 2: INTERNATIONAL AND REGIONAL TREATIES.....	11
A. Regional Multilateral/Bilateral Treaties	11
B. International Treaties	13
C. Regional	15
CHAPTER 3: DOMESTIC LEGISLATION ON WATER.....	15
A. Water law	15
B. Environmental law	16
CHAPTER 4. THE HUMAN RIGHTS TO WATER AND SANITATION & SDG 6 TARGETS including elements of the Human Right to a Healthy Environment	18
A. Availability and accessibility (SDG 6.1, 6.2, 6.4)	19
B. Quality and safety (SDG 6.1, 6.2, 6.3).....	20
C. Water pollution control (SDG 6.3, 6.6).....	22
D. Affordability (SDG 6.1)	24
E. Acceptability (SDG 6.1, SDG 6.2)	25
F. Non-discrimination, equality, and universal access (SDG 6.1, 6.2).....	25
G. Right to information, Transparency (SDG 6.b).....	26
H. Public participation (SDG 6.5.1, 6.b)	28
I. Sustainability (SDG 6.4, 6.5, 6.6)	28
J. Accountability/ Remedies and complaint procedures.....	29
CHAPTER 5. JUDICIARY SYSTEM	30
A. Preliminary questions	30
B. Remedies and complaint procedures/accountability	32
C. National human rights institutions.....	35
D. Regulation	35
ANNEX 1: TARGETS AND INDICATORS OF SDG 6.....	Error! Bookmark not defined.
ANNEX 2: The human rights to water and sanitation and the right to a healthy environment compared	37

INTRODUCTION

This analysis follows the mapping methodology used by Human Right 2 Water to assess the integration of the human rights to water and sanitation (HRWS) into law and policy at national level. It has been adapted and extended to give voice to the human right to a clean, safe¹, healthy and sustainable environment (HRHE), with the aim of assessing the combined advantages of recognising both these sets of human rights.

It draws upon the criteria and principles that were originally laid out in General Comment No.15² for the human right to water and sanitation, with further elaboration of the right to sanitation after it was recognised as a separate human right in 2015. Alongside this and noting that the HRHE was also recognised as a human right by the General Assembly in July 2022³, we have compared the main principles of the HRHE as related to water. For this analysis, we draw upon the Framework Principles from the paper published by the Special Rapporteur on Human Rights and the Environment from 2018⁴, Good Practices on the Right to a Safe, Clean, Healthy and Sustainable Environment⁵, and the paper titled 'Human Rights Depend on Safe and Sufficient Water', 2021⁶.

In addition to the principles of a human rights-based approach⁷, there are the normative criteria of the human rights to water and sanitation, which are specific to the realisation of these rights. The substantive elements of the HRHE, as referenced in the Good Practices⁸ paper mentioned above, are also considered here, where they are linked to water, specifically element 4 on the access to safe water and adequate sanitation. Given the significant advances in the design and measurement of national indicators for the supply of clean and safe drinking water and sanitation through the Joint Monitoring Programme⁹, General Comment No.15 has been augmented, especially on the topic of sanitation, which was recognised as a separate right in 2015. For the purposes of this analysis, the criteria have been maintained as the five elements of the human rights to water and sanitation, and there are additional questions relating to specific environmental aspects that support these rights.

For reference, Annex 2 collates the two sets of human rights principles, looking at how they relate under each category.

¹ Note that the word 'safe' has been included in several places, including the title of the Special Rapporteur, and the framework principles, but not in the latest UNGA resolution.

² General Comment No. 15 on the Right to Water, was adopted in November 2002, by the Committee on Economic, Social and Cultural Rights and then explicitly recognised on 28 July 2010, through [Resolution 64/292](#), the United Nations General Assembly.

³ The human right to a clean, healthy and sustainable environment, July 2022 (A/76/L.75).

⁴ Framework Principles from the paper published by the Special Rapporteur to the Healthy Environment from 2018, ARC/37/59.

⁵ Good Practices on the Right to a Safe, Clean, Healthy and Sustainable Environment, March 2020, A/HRC/43/53.

⁶ 'Human Rights Depend on Safe and Sufficient Water', 2021, HRC/26/48.

⁷ The elements of the HRBA are Participation, Accountability, Non-discrimination and Equality, Empowerment and Legality.

⁸ Good Practices on the Right to a Safe, Clean, Healthy and Sustainable Environment, March 2020, A/HRC/43/53.

⁹ JMP, WHO and UNICEF data found at www.washtdata.org.

Overview of national water governance for Senegal

General Legislation

1.A.1	Supreme Law	The Constitution (as defined below)
1.A.2	State Organization	Unitary Presidential Republic
1.A.3	Relationship between International and National Law	Senegal is generally recognised as a monist state, with certain exceptions.
1.A.4	Name of Institution possessing regulation-making authority	The National Assembly
1.A.5	Popular consultation as part of governing/legislative process	Yes
1.A.8	Member of a regional integration organization	Yes
5.C.1	Independent National Human Rights Institution (NHRI)	Yes

Water Governance

3.A.1	Right to Water mentioned in Constitution	Not expressly
3.A.2	Right to Sanitation mentioned in Constitution	Not expressly
3.A.3	Right to a clean and healthy Environment in Constitution	Yes
3.A.4	A water code or a law specific to water resources	Yes
3.A.5	National Strategy, Policy, Action Plan etc. on Water and Sanitation	Yes
1.A.8	International institution for Transboundary Water Resources	Yes
3.C.7	Priorities in the allocation of water for different uses?	Yes

Benchmark Scores¹⁰

4.A	Availability and Accessibility	Partially included
4.B	Quality and Safety	More than half
4.C	Water Pollution Control	More than half
4.D	Affordability	Partially included
4.E	Acceptability	Partially included
4.F	Non-Discrimination, Equality, Universal Access	More than half
4.G	Right to Information, transparency	Partially included
4.H	Public Participation	Partially included
4.I	Accountability, remedies and complaints procedures	Partially included
4.J	Sustainability	More than half
TOTAL		Partially included

KEY

Mostly included
More than half
Partially included
Few references

¹⁰ Score up to 10 allowed for each element, with a score of 10 suggesting that all relevant laws are fully included, zero suggests there are no laws to fit this criterion, and scores on a scale of 1-10 represent the degree of inclusion of pertinent laws (double click to activate excel sheet for calculation).

CHAPTER 1. WATER GOVERNANCE OVERVIEW

A- Preliminary questions:

1. **What type of State is the country? (e.g. Federal, Unitary, etc)**

Senegal is a Unitary Presidential Republic, article 1 of the Constitution, with 14 regions: Dakar, Diourbel, Fatick, Kaffrine, Kaolack, Kedougou, Kolda, Louga, Matam, Saint-Louis, Sedhiou, Tambacounda, Thies and Ziguinchor.

2. **Is there any division of government powers? If yes, please elaborate on their functions.**

The Government of the Republic of Senegal (“Senegal”) includes the Prime Minister, the Head of Government, and the Ministers (Article 53 of Senegal’s Constitution of 2001, (as amended from time to time, the “Constitution”). The Prime Minister’s position is cut since the reform on the 14 May 2019, constitutional law n°2019-10, unique article.

However, pursuant to the Constitution, most of the powers and prerogatives are concentrated in the hands of the President. For example, he:

- appoints the Prime Minister.
- determines the policy of Senegal (Article 42 of the Constitution).
- chairs the Council of Ministers (Article 42 of the Constitution); and
- appoints civil servants (Article 44 of the Constitution).

According to Article 50 of the Constitution, “The President of the Republic may delegate, by decree, certain powers to the Prime Minister or to other members of the Government, except for the powers provided for in articles 42, 46, 47, 49, 51, 52, 72, 73, 87, 89 and 90 of the Constitution.

It should also be noted that “the Government conducts and coordinates the policy of the Nation (i.e. Senegal) under the leadership of the Prime Minister” (please see Article 53 para. 2 of the Constitution).

3. **Which institutions and levels of government have legislative powers?**

In the ordinary course of business, the National Assembly is the governmental institution upon which legislative powers are bestowed by the Constitution (please see Article 67 of the Constitution).

However, the National Assembly may authorize the President of Senegal by law to take measures, which are normally “of the domain of law” (please see Article 77 of the Constitution). The President of the Republic also takes the ordinances which enter into force on their publication (please see Article 77 of the Constitution).

Regarding the legislative process, the power to initiate and introduce legislation to the National Assembly lies with the President of the Republic, the Prime Minister and the deputies of the Prime Minister (please see Article 80 of the Constitution).

4. **Who has the power to ratify treaties?**

Pursuant to Article 95 of the Constitution, the President of Senegal authorises and, where necessary, ratifies international treaties upon having received the authorization by the National Assembly.

That said, with regard to peace treaties, commercial treaties, treaties or agreements relative to international organization, those which engage the finances of Senegal, those which modify the provisions of a legislative nature, those which are relative to the status of persons, and those involving cession, exchange or addition of territory Senegal follows a dualistic system. Thus these may only be ratified or approved by virtue of a law (please see Article 96 of the Constitution).

5. **Is there popular consultation as part of governing/legislative process?**

According to Article 3, para 1 of the Constitution, “national sovereignty belongs to the Senegalese people who exercise it through their representatives or through a

referendum". There is thus an involvement of the public in the governing process.

"Members of the Government may be heard at any time by the National Assembly and its committees. They may be assisted by collaborators.

The standing committees of the National Assembly may hear the directors general of public establishments, national societies and governmental agencies. (please see Article 81 of the Constitution).

6. Has the country established one or several basin management agencies? Is it autonomous?

At the state level our research has not identified a governmental agency that is solely and exclusively responsible for the management of Senegal's basins. This task appears to fall within the remit of the Ministry of the Environment and Sustainable Development and the Ministry for Water and Sanitation.

Pursuant to Decree 2012-652 of 4 July 2012, the duties of the Ministry of the Environment and Sustainable Development include to implement the policy defined by the Head of State to protect and manage ponds and aquaculture.

Pursuant to Decree 2012-654 of 4 July 2012, the Ministry for Water and Sanitation is, among other things, responsible for the water supply to the population of Senegal. It also manages the National Water Company of Senegal (SONES) and the Senegalese Water Company (SDE).

On the other hand, at the international level, Senegal together with other western African states, has set up organisations for the management of transboundary watercourses (see following questions).

7. Does the country have transboundary water resources?

Senegal has multiple transboundary rivers. These include the Senegal River, the Gambia River, the Koulountou and the Geba/Kayanga.

8. Where transboundary water resources

exist, is there an established international institution for basin management? Does it have any responsibility in relation to drinking water?

In the context of certain transboundary water resources, Senegal is a party to international organizations responsible for their management.

Senegal is a member of the Senegal River Development Organization (the "OMVS"), an intergovernmental organisation created in 1972 to manage the Senegal River. Its headquarter is based in Dakar.

Part of OMVS' structure is a Standing Water Commission. This commission is "responsible for defining the principles and modalities of the distribution of the waters of the Senegal River between states and between water use sectors: industry, agriculture, transport".

The OMVS Water Charter does not expressly address the subject of drinking water.

However, according to Article 2 of the OMVS Water Charter, the purpose of the Charter is to "establish the principles and modalities of the distribution of the waters of the Senegal River between the different sectors of use. The different uses of river waters may concern (...) the water supply of urban and rural populations (...)".

Senegal is also a party to the Gambia River Basin Development Organization (the "OMVGs") note : by resolution 4/CEG/CG of 6 June 1981 of the Conference of Heads of State and Government. The main mission of the OMVGs is the rational and harmonious exploitation of the common resources of the Gambia, Kayanga-Geba and Koliba-Corubal river basins. The Preamble of the convention of OMVGs "DESIROUS to promote and to intensify co-operation and economic exchange and to pursue in common their efforts for economic development of the resources of the river Gambia.". Article 1 "This Organisation is charged with the responsibility: (2) To promote and to co-

ordinate the studies and works for the development of the Gambia River Basin within the national territories of the member States of the organization". Its headquarter is in Senegal. We were not able to establish whether the OMVGs have any responsibilities with regards to drinking water.

In 2018 (31 of august) the Senegal also acceded to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, the Secretariat of which is provided by United Nations Economic Commission for Europe. Senegal's accession to the Water Convention aims to support the efforts undertaken by the country in the sustainable management of its water resources and offers new prospects for strengthening transboundary cooperation in Africa.

B- The country is member of a regional integration organisation?

1. Which countries form part of this organisation?

Senegal is part of regional integration organizations, mainly WAEMU (as defined below) since 1994, ECOWAS (as defined below) since 1975 and the African Union since 1963.

The West African Economic and Monetary Union (the "WAEMU") comprises 8 members: Benin, Burkina Faso, Ivory Coast, Guinea Bissau, Mali, Niger, Senegal and Togo.

The Economic Community of West African States (the "ECOWAS") comprises 15 member states. In addition to the 8 member states of WAEMU, there are Cape Verde, Gambia, Ghana, Guinea, Liberia, Nigeria and Sierra Leone.

The African Union is composed of 55 member states. In addition to the ECOWAS members, there are South Africa, Algeria, Angola, Botswana, Burundi, Cameroon,

Central African Republic, Comoros, Chad, Republic of the Congo, Democratic Republic of Congo, Djibouti, Egypt, Eswatini, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Kenya, Lesotho, Libya, Madagascar, Malawi, Mauritius, Morocco, Mauritania, Mozambique, Namibia, Uganda, Rwanda, Sahrawi Arab Republic, Sao Tome and Principe, Seychelles, Somali, Sudan, South Sudan, Tanzania, Togo, Tunisia, Uganda, Zambia and Zimbabwe.

2. Are the decisions of the organisation legally binding for the members?

According to Article 6 of the WAEMU Treaty, "the acts adopted by the organs of the Union for the completion of the objectives of the WAEMU Treaty and in accordance with the rules and procedures established by the WAEMU Treaty, shall be applied in each Member State". In addition, Article 43 outlines that Regulations, Guidelines, and Decisions put into force by the Council of the WAEMU have direct effect.

Concerning the ECOWAS, Article 9(4) of its founding accord, the Abjua Treaty, outlines that the decisions by the Authority, which is composed of the heads of states, shall be binding on member states. In addition, pursuant to Article 12(3) of the Abjua Treaty, Regulations of the Council of Ministers, are binding on member states once approved by the Authority. Finally, according to Article 15(4) of the Abuja Treaty, judgments of the Court of Justice of the ECOWAS shall be binding on member states.

Within the African Union, the decisions of the Assembly (composed of the heads of state and government of member states) (Article 7 of the Constitutive Act of the African Union) and of the Executive Council (composed of the ministers of foreign affairs or any other ministers or authorities designated by the governments of the member States)(Article 10 of the Constitutive Act of the African Union) are binding on member states.

3. What is the mandate of the organisation?

Article 4 of the first title of the WAEMU Treaty outlines the following objectives for the WAEMU:

- enhance the competitiveness of financial and economic activities of member states within the framework of an open and competitive market and a streamlined and harmonized legal framework;
- achieve convergence of economic performance and policy of member states of the institution;
- among member states establish (i) a common market based on the free movement of persons, goods, services, and capital, (ii) the right of establishment of self-employed or employed persons, (iii) a common external tariff (iv) and a common commercial policy;
- coordinate national sectoral policies, through the implementation of joint actions and possibly of common policies in particular in the following areas: human resource planning, transport and telecommunications, environment, agriculture, industry, energy and mining; and
- harmonize, insofar as necessary for the proper functioning of the common market, the laws of the member states and more particularly taxation.

According to Article 3(1) of the revised ECOWAS Treaty: “The aims of the Community are to promote co-operation and integration, leading to the establishment of an economic union in West Africa in order to raise the living standards of its peoples, and to maintain and enhance economic stability, foster relations-among Member States and contribute to the progress and development of the African Continent.”

According to Article 3 of the Constitution of the African Union the objectives of the Union are:

- achieve greater unity and solidarity among African countries and among the countries and peoples of Africa;
- defend the sovereignty, territorial integrity and independence of its member states;
- accelerate the political and socio-economic integration of the continent;
- promote and defend African common positions on issues of interest to the continent and its peoples;
- encourage international cooperation, taking due account of the Charter of the United Nations and the Universal Declaration of Human Rights;
- promote peace, security and stability on the continent;
- promote democratic principles and institutions, popular participation and good governance;
- promote and protect human and peoples’ rights in accordance with the African Charter on Human and Peoples Rights and other relevant human rights instruments;
- establish the necessary conditions which enable the continent to play its rightful role in the global economy and in international negotiations;
- promote sustainable development at the economic, social and cultural levels, as well as the integration of African economies;
- promote cooperation in all fields of human activity to raise the standard of living of African peoples;
- coordinate and harmonize policies between existing and future Regional Economic Communities for the gradual attainment of the objectives of the Union;
- advance the development of the continent by promoting research in all fields, in particularly in science and technology; and
- work with relevant international

partners in the eradication of preventable diseases and the promotion of good health on the continent.

4. Does the regional organisation have the authority to regulate or make decisions which affect water, sanitation and a healthy environment? Are there any mechanisms for enforcement?

ECOWAS (article 31 of the revised Treaty) and WAEMU can publish policies and regulations in the area of water, sanitation and a healthy environment. They have, for example, published the West African Water Resource Policy to harmonise the various sector wide policies and strategies affecting water management in West Africa.

In relation to the African Union, one of its organs, the Executive Council, may decide on policies in the areas of water resources and irrigation (please see Article 13(1)(d) of the Constitution of the African Union).

C- Water governance and administration:

1. What is the structure of the government water administration (provide relevant organizational charts whenever available) and what power, role and responsibilities does the Government have at each level?

a. At national/federal level?

At the national level, the Ministry of the Environment and Sustainable Development and the Ministry for Water and Sanitation are responsible for water administration. Please see our answer to Question 5 in Section A of Chapter 1 above.

b. At the intermediate level (state, river basin, other)?

N/A – considering that Senegal is a republic.

c. At the local level?

Since 2019, the Suez Group is responsible for water management in urban and peri-urban areas under a public private partnership. It has been awarded a 15 year contract to lease and manage the water supply in urban and peri-urban areas by the Ministry for Water and Sanitation.¹¹

In rural areas, the Rural Drilling Office (OFOR) is the governmental body in charge of water management. It is under the supervision of the Ministry for Water and Sanitation. It recruits private operators to which it awards contracts for the production, maintenance and marketing of drinking water services. An example of this practice is the recent concession agreement entered into with the Senegalese Rural Water Company (SDER) for water management in rural areas in three regions of Senegal, namely Louga, Saint-Louis and Matam.¹²

2. Which government ministries/agencies are directly or indirectly involved in governance of water and sanitation and a healthy environment?

In addition to the Ministry of the Environment and Sustainable Development and the Ministry for Water and Sanitation, the following are directly or indirectly involved in the governance of water and sanitation and a healthy environment in Senegal:

- The Ministry of Interior;
- The Ministry of Urbanisation;
- The Ministry of Economy, Finance and Planning;
- The Ministry of Health;
- The Ministry of Energy, Mines, and

¹¹ <https://www.afrik21.africa/en/senegal-suez-to-manage-public-drinking-water-service/>

¹² <https://www.afrik21.africa/en/senegal-sder-secures-rural-water-management-contract-in-3-regions/>

- Industry;
- The Ministry in charge of Equipment and River Transport;
- The Ministry of Agriculture and Rural Equipment;
- The Ministry for Scientific Research and Technology;
- The Ministry of Livestock breeding and Animal productions;
- The Ministry of Fisheries and Maritime Economy; and
- The Ministry of Territorial Governance, Development and Land Management.

The ministers of the aforementioned ministries as well as the Prime Minister and representatives of various interests groups make up the Higher Water Council, which (Decree no. 98-557 of June 25, 1998 creating a Higher Council for Water) :

- decides on the main options for the development and management of Senegal's water resources;
- arbitrates disputes arising from the use of water for:
 - drinking water supply for urban and rural populations;
 - livestock, agriculture, fish farming and forestry;
 - industry and mining;
 - hydroelectric energy,
 - navigation, or
 - leisure and sports;
- ensures compliance with international water management regulations; and
- decides on any other matter related to the management and control of water resources.

The Higher Water Council was established pursuant Decree No. 98-557 and "decides the main options for water management, ensures compliance with the regulations relating to the Management of international waters, and decides on any other issue related to the management and control of water resources" (see Decree No. 98-557 establishing a higher Water Council, Articles

2 and 4).

In addition, the Technical Committee on Water, established pursuant to order 9060 of December 14 1998, is responsible for studying and analysing all questions relating to water management, on behalf of and at the request of the Higher Water Council.

3. Which national government agency is responsible for the environment? What are its responsibilities with respect to water?

Pursuant to Decree 2012-652, the Ministry of the Environment and Sustainable Development is responsible for the environment. It is responsible to limit the impact of polluting activities on the environment, including water. It is also responsible for developing the aquaculture industry in Senegal.

4. Which national government agency is responsible for drinking water? What are its responsibilities?

The Ministry for Water and Sanitation is, pursuant to Decree 2012-654, article 1, responsible for (among other things):

- the implementation of Senegal's water policy;
- the water supply of Senegal's population in rural, urban and suburban areas;
- the implementation, operation and maintenance of hydraulic structures;
- the definition and implementation of tariff policies for drinking water supply;
- the implementation of the national water system; and
- the water supply of livestock of Senegal's population.

It also supervises the Senegalese Water Company (SDE) and it monitors the quality of water supplied to households and businesses.

5. Which national government agency is responsible for sanitation? What are its responsibilities?

The Ministry for Water and Sanitation is, pursuant to Decree 2012-654 article 1, responsible for (among other things):

- Senegal's sanitation policy; and
- the availability and upkeep of equipment for the collection, disposal and treatment of wastewater and rainwater.

For the latter purpose, it supervises the National Office for Sanitation of Senegal (ONAS).

CHAPTER 2: INTERNATIONAL AND REGIONAL TREATIES

- 1. What international or regional treaties has the country ratified? Please insert the date of the signature/ratification/accession.**
- 2. What declaration or reservation has the country entered to these instruments?**

A. Regional Multilateral/Bilateral Treaties

African Convention on the Conservation of Nature and Natural Resources

Table 1. Regional multilateral and bilateral treaties

Instruments	Participating States	Entry into force
African Convention on the Conservation of Nature and Natural Resources (1968)	Algeria, Angola, Burkina Faso, Cameroon, Central African Republic, Comoros, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Egypt, Gabon, Ghana, Guinea, Kenya, Liberia, Madagascar, Malawi, Mali, Morocco, Mozambique, Niger, Nigeria, Rwanda, Senegal, Seychelles, Sudan, Eswatini, Tanzania, Togo, Tunisia, Uganda and Zambia	16/06/1969
Convention on Fisheries Cooperation among African States bordering the Atlantic Ocean	Angola, Benin, Cabo Verde, Cameroon, Côte d'Ivoire, Congo, Democratic Republic of the Congo, Equatorial Guinea, Gabon, Gambia, Ghana, Guinea, Guinea Bissau, Mauritania, Morocco, Nigeria, Sao Tome et Principe, Senegal, Sierra Leone and Togo	11/08/1995
African Charter on Human and Peoples' Rights	All African Union member states (see above), excluding Morocco	21/10/1986
African Charter on the Rights and Welfare of the Child	All African Union member states (see above), excluding: Morocco	29/09/1999
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	All African Union member states (see above), excluding: Botswana, Cape Verde, Egypt, Malawi, Mali and Mauritania	25/11/2005

Instruments	Participating States	Entry into force
African Convention on the Conservation of Nature and Natural Resources (revised version) (2003)	All African Union member states (see above), excluding: Algeria, Botswana, Cameroon, Cape Verde, Egypt, Eritrea, Malawi, Morocco, Mauritius, Seychelles and Tunisia	23/07/2016
African Union Convention on the Protection and Assistance of internally displaced Persons in Africa	All African Union member states (see above), excluding: Algeria, Botswana, Cameroon, Cape Verde, Egypt, Kenya, Libya, Malawi, Morocco, Mauritius, Niger, South Africa, Seychelles, Sudan, Eswatini	06/12/2012
Bamako Convention on the Prohibition of the Import into Africa of Hazardous Wastes and on the Control of Transboundary movements and Management of Hazardous Wastes generated in Africa	Benin, Burkina Faso, Burundi, Cameroon, Cameroon, Chad, Cote d'Ivoire, Comoros, Congo, Democratic Republic of Congo, Ethiopia, Gabon, Gambia, Mali, Mozambique, Niger, Senegal, Sudan, Tanzania and Togo	22/04/1998

B. International Treaties

Table 2. International binding instruments

Instruments	Signature	Ratification
Forced Labour Convention		04/11/1960
Convention on Fishing and Conservation of the Living Resources of the High Seas		25/04/1961
Convention relating to the Status of Refugees		02/05/1963
Geneva Convention (III) relative to the Treatment of prisoners of War		18/05/1963
Geneva Convention (IV) relative to the Protection of Civilian Persons in time of War		18/05/1963
International Convention on the Elimination of All Forms of Racial Discrimination	22/07/1968	19/04/1972

Instruments	Signature	Ratification
International Covenant on Civil and political Rights	06/07/1970	13/02/1978
Optional Protocol to the International Covenant on Civil and political Rights Reservation/Declaration:	06/07/1970	13/02/1978
International Covenant on Economic, Social and Cultural Rights	06/07/1970	13/02/1978
Convention Concerning the Protection of the World Cultural and Natural Heritage		13/02/1976
Convention on International Trade in Endangered Species of Wild Fauna and Flora	05/08/1977	03/11/1977
Protocol Additional (I) to the Geneva Conventions of 12 August 1949 and relating to the Protection of victims of International Armed conflicts	12/12/1977	07/05/1985
Protocol Additional (II) to the Geneva Conventions of 12 August 1949 and relating to the Protection of victims of Non-International Armed conflicts	12/12/1977	07/05/1985
Convention on Wetlands of International importance particularly as Waterbird Habitat		11/11/1977
Convention on the Elimination of all Forms of Discrimination against Women	29/07/1980	05/02/1985
Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women	10/12/1999	26/05/2000
Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment	04/02/1985	21/08/1986
Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (as amended)		25/11/1985
Convention on the Rights of the Child	26/01/1990	31/07/1990
United Nations Framework Convention on Climate Change	13/06/1992	17/10/1994
Convention on Biological Diversity	13/06/1992	17/10/1994
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families		09/07/1999
Convention on Biological Diversity		15/01/1995
United Nations Convention to Combat Desertification in those countries experiencing serious drought and/or Desertification, particularly in Africa	14/10/1994	26/06/1995
Convention for the Protection of All Persons from Enforced Disappearance	06/02/2007	11/12/2008
Convention on the Rights of Persons with Disabilities	25/04/2007	07/09/2010
Optional Protocol to the Convention on the Rights of Persons with Disabilities	25/04/2007	
Optional Protocol to the International Covenant on Economic, Social and Cultural Rights	24/09/2009	
Convention on the Law of the Non-Navigational uses of International Watercourses		31/08/2018
Convention on the Protection and Use of Transboundary Watercourses and International Lakes		09/09/2018
Occupational Health Services Convention		01/03/2021
Minamata Convention on Mercury	11/10/2013	03/03/2016
Convention on the Rights of the Child	26/01/1990	31/07/1990

Instruments	Signature	Ratification
Forced Labor Convention, No. 29		04/11/1960

C. Regional

Table 3. Regional instruments

Instruments	Signature	Ratification
Convention relating to the Status of the Senegal River	11/03/1972	
Convention establishing the Organization for the Implementation of Value of the Senegal River	11/03/1972	
Convention on the Status of the Gambia River	30/06/1978	
Convention establishing the Organization for the Development of the Gambia River	30/06/1978	

CHAPTER 3: DOMESTIC LEGISLATION ON WATER

A. Water law

1. Is the right to water mentioned in the Constitution?

The Constitution does not expressly mention the right to water. However, Articles 8 and 25(2) guarantee to Senegal's citizens the right to a "healthy environment" and the "right to health". In essence, these provisions protect the right to health and the right to a healthy environment, which can indirectly encompass the right to water.

2. Is the right to sanitation mentioned in the Constitution?

Articles 8 and 25(2) of the Constitution state that "each (citizen) has the right to a healthy environment" and the "right to health". In essence, these provisions protect the right to health and the right to a healthy environment, which can be seen as implicitly referring to a right to sanitation.

3. Does the Constitution otherwise reference water and sanitation?

The Constitution does not, other than outlined above, reference water or sanitation.

4. Is there a water code or a law specific to water resources? Please specify.

Law No. 81-13 of March 4, 1981. It contains Senegal's Water Code.

5. Is there national strategy / policy, action plan or similar document on water? Does it include the management of wastewater and sanitation?

Yes, Senegal's government has set goals to meet the UN's Sustainable Development Goals by 2025. In addition, Senegal's government has set out the Program of Priority Actions, setting out key objectives for strengthening the governance and management of water resources.

6. Are there any other major regulations, decrees, orders, circulars, or similar official documents (such as pricing, water policing, utility easements, public domain occupation...etc.) related to the rights to water and sanitation?

Yes, please see below:

- Decree No. 18585 of 28 November 2013 governing the access of agricultural users to the Senegal

- River Valley (including fees);
- Decree No. 98-557 establishing a Higher Water Council;
- Decree No. 98-1025 regulating the provision of water services in Senegal;
- Decree No. 98-556 implementing the provisions of the Water Code relating to the water police;
- Decree No. 98-555 implementing certain provisions of the Water Code;
- Law No. 83-71 on the Hygienic Code;
- Law No. 2009-25 establishing the Sanitation Code; and
- Law No. 2008-59 regulating the public supply of drinking water and the collective sanitation of domestic wastewater.

- National Strategy for Sustainable Development (2016).
- “Senegal's commitment, through its National Determined Contribution (NDC) adopted in December 2020 is reflected in its determination to implement sustainable land management practices and to take part in global strategies for mitigating and adapting to climate change.” “The historic and universal Paris climate agreement aimed at containing the rise in temperature to less than two degrees Celsius, with Senegal's contribution to this effort, as set out in its "Nationally Determined Contribution (NDC)".
- EU-Africa partnership (2020) “to minimise threats to the environment and protect biodiversity and natural resources, in particular through sustainable forest management.”

B. Environmental law

1. **Is the right to a healthy environment mentioned in the Constitution?**
Article 8 and 25(2) guarantee to Senegal's citizens the right to a “healthy environment”.
2. **Does the Constitution otherwise reference a safe, clean and healthy environment?**
No.
3. **Is there an environmental code or law that references water?**
Yes, please see below:
 - Law No. 2001-01 on the Environmental Code; and
 - Law No. 83-05 establishing the Environmental Code.
4. **Is there a national strategy, policy, action plan or similar document on the environment?**
Yes, please see below:
 - Senegal's Forest Policy 2005-2025;
 - Senegal's National Strategy for the Management of Protected Areas of Senegal (2011); and
 - National Strategy for Marine Protected Areas (MPA) of Senegal (2013).

5. **Are there any other major regulations, decrees, orders, circulation or similar documents related to the right to a healthy environment (such as resource consents, public domain occupation etc)?**

Yes, please see below:

- Law No. 2001-01 on the Environmental Code; and
- Law No. 83-05 establishing the Environmental Code.

C. Extraction and/or use of water

1. **Does the legislation regulate the right to abstract water? (Surface, groundwater etc.)?**
Yes, Senegal's Water Code regulates the collection (articles 16, 40, 43, 61, 86) and abstraction (articles 33, 35, 37, 41, 106) of water.
2. **Does the legislation distinguish between the extraction of drinking water and water for other uses?**
Yes, Sections 1 to Section 6 of Title I of Senegal's Water Code regulate the use of rain, surface, and ground water for

consumption.

Section 7 of Title I of Senegal's Water Code (and in particular Article 44 of Senegal's Water Code) regulates the extraction of water for certain uses other than "consumption". These uses are:

- the generation of hydro-electric energy
- refrigeration;
- high draft navigation;
- fish farming; and
- recreational activities.

Each such use requires a permit (please see Article 44 of Senegal's Water Code).

In addition, Article 69 of the Water Code states that the Ministry of Water and Sanitation shall stipulate the conditions for the use of water for the following uses in decrees:

- Livestock;
- Agriculture;
- Forestry;
- Industrial uses of consumers and non-consumers;
- Production of hydroelectric energy;
- Fish farming;
- Mining industries; and
- Tourism industries.

3. Is the right to use water connected to land ownership?

So far as the use of rainwater is concerned, yes. Please see Article 3 of Senegal's Water Code which states that private land owners may use or accumulate rain water on their property, provided the water remains on the surface.

So far as the use of groundwater is concerned in so called "Zone II" areas, a land owner may extract up to five cubic meters per hour, after which the right to use the ground water is linked to a license from the Ministry of Water and Sanitation (please see Article 35 of Senegal's Water Code).

The use of ground water in so called "Zone I"

areas on the other hand is not connected to land ownership at all. The right to use such water is linked to a license from the Ministry of Water and Sanitation (please see Article 33 of Senegal's Water Code).

Zone I areas are:

1. basins where the use of groundwater is approaching the limits of their resources;
2. basins that supply localities served by a public water distribution service; and
3. basins where there is a potential danger saline water intrusion.

Zone II areas are all areas that are not Zone I areas.

Pursuant to Article 40 and Article 42 of the Water Code, the use of surface water also requires a permit if it exceeds 5 cubic metres per hour.

4. Are permits/licenses required for water use (e.g. domestic, agricultural, industrial)?

Except for the use of (i) rainwater in accordance with Article 3 of the Water Code, (ii) groundwater in Zone II areas in accordance with Article 35 of the Water Code, and (iii) surface water in accordance with Article 42 of the Water Code, permits are required to use water. This also includes using water for purposes other than "consumption".

5. Can permits/licenses be suspended? Under what circumstances?

According to Article 17 of the Water Code, any permit to use water may be suspended. The Article does not refer to any specific conditions that must be fulfilled for a suspension.

In addition, Article 21 of the Water Code outlines the situations in which a permit may be withdrawn and whether compensation may be claimed where a withdrawal has occurred.

6. Can water abstraction licenses be transferred? Is transferability subject to

restrictions?

Generally permits are “personal” (except for legal persons governed by public law) and may only be transferred to the heirs of the beneficiary. Any other transfers requires the authorization of the Ministry of Water and Sanitation (please see Article 14 of the Water Code).

However, in line with Article 15 permits granted to make use of water for the purpose of an agricultural, livestock industrial or tourist holding also transfer if the respective holding transfers.

7. Are there priorities in the allocation of water for different uses?

According to Article 75 of the Water Code, the supply of water to the population of Senegal for human-needs shall have priority.

Subsequently, Article 76 notes that “when human water needs have been met, priority is given to the needs of livestock, agriculture, forestry, fish farming and reforestation projects, and then to the needs of industrial and agro-industrial complexes. The needs of river navigation, hydroelectric power generation, mining companies and the tourism industry are met according to their economic priority”.

Article 77 of the Water Code notes, however, that “when certain exceptional events such as, force majeure, drought, floods, natural calamities occur, the order of priorities can be temporarily changed”.

8. Are there any regulations for monitoring the volume of water extracted from groundwater?

Yes, pursuant to Article 13 of the Water Code a beneficiary of a permit must indicate the rate of exploration of the water table in the frequency and manner as required by the Ministry of Water and Sanitation.

9. Are there any restrictions for releasing contaminants/pesticides/fertilisers/farm animal effluent/industrial waste or other pollutants to rivers, lakes, seas, or groundwater?

Yes, Article 49 of the Water Code states that no discharge or direct or indirect deposition into groundwater or a watercourse likely to modify its physical characteristics, including thermal and radio-active, chemical, biological or bacteriological, may be made without an authorization by the Ministry for Water and Sanitation, granted after an investigation has occurred.

CHAPTER 4. THE HUMAN RIGHTS TO WATER AND SANITATION & SDG 6

TARGETS¹³ including elements of the Human Right to a Healthy Environment

A. Availability and accessibility (SDG 6.1, 6.2, 6.4)

1. What laws or regulations ensure that a minimum essential level of water is available to all?

Neither the Water Code nor Law No. 2008-59 provide for a minimum amount of water for users.

2. What are the standards/policies on the amount of water to be made available?

As far as we are aware, there are no standards/policies on the amount of water to be made available to consumers either under the Water Code or under Law No. 2008-59.

However, Article 3 of Law No. 2008-59 provides that “the collection, production, transport and distribution of drinking water in order to meet the needs of users [...] are public services for which the responsibility lies with the government of Senegal.” Article 13 of Law No 2008-59 further provides that: “The delegating Authority shall guarantee the continuity of the public water and collective sanitation service in the event of a lack of management delegation holders or in the absence of management delegation holders and may take any urgent measures to this end.” Likewise, Article 14 provides that “except in cases of force majeure, fortuitous cases or temporary derogations provided for in the Agreement of Delegation of Management, the supply of drinking water shall be ensured continuously day and night.”

3. In cases where water is not available on premises, what mechanisms are in place to ensure collection times do not exceed 30 minutes including wait times and queuing?

We were unable to locate any legal

provisions / mechanisms on this point.

4. Does the law ensure continuous supply of water for all?

Article 13 of Law No 2008-59 provides that: “The delegating Authority shall guarantee the continuity of the public water and collective sanitation service in the event of a lack of management delegation holders or in the absence of management delegation holders and may take any urgent measures to this end.”

5. In instances where water availability is not continuous, what measures are implemented?

We were unable to identify specific measures that are in place or implemented.

6. How is water supply availability ensured for marginalized and vulnerable groups, e.g., economically challenged or less developed rural areas?

We were unable to identify specific measures that are in place or implemented.

7. Does the law/policy prioritize water for domestic uses over other uses?

The Water Code and other water regulations do not refer to the domestic use of water specifically. The Water Code refers only to the artificial use or accumulation of storm water falling on private land (Article 3) and the order of priority in water uses, giving primacy to human needs (Articles 74 and 75).

8. What are the grounds for disconnecting, interrupting or altering water supply and sanitation services (e.g., authorities may alter water supply in case of droughts or emergencies, in which cases are disconnections possible...)?

We did not identify any specific grounds for interrupting water and sanitation services. The Water Code states in relation to

¹³ See Table of the Targets and Indicators of SDG 6 page 9

exceptional circumstances such as force majeure, floods or drought that the order of priorities for water use may be changed (Article 77).

9. What are the procedural standards/criteria for permitting interruption, disconnection or alteration of water supply and sanitation services?

We were unable to identify any specific procedural standards or criteria. In cases of widespread water cuts, the Company des Eaux usually proceeds by radio-TV and written statement to warn the populations.

10. Are alternative ways of water supply and sanitation services provided for in case of alteration of supply and/or service?

We did not identify any alternative ways of supplying water.

11. Does law/policy provide guidance on: The number of water outlets?

According to the Directorate of Hydraulics of the Ministry of Agriculture and Hydraulics of Senegal prepared in 2005 ("elaboration of a strategy document for the Completion by 2015 of the Millennium Development Goals"), the objective was to achieve (i) in particular in rural areas, an average density of one water point for 250 to 300 people and (ii) a distribution of drinking water by fountain terminal in any rural community capital and any locality of more than 1000 inhabitants.

12. The safety, distance and time from a dwelling or structure to reach water outlet or sanitation facilities (e.g., laws that specify water outlets must be available within a certain distance from a school or household)?

We could not identify any relevant legal/policy provisions.

13. Technical safety of water outlets or sanitation facilities (e.g., law requiring that certain standards are applied in the construction of those facilities or of buildings)?

We could not identify any relevant documents.

14. Are there any standards that protect healthy natural water bodies to guarantee sustainable sources of water for drinking or other household uses?

We could not identify any relevant standards.

15. Do groundwater sources and aquifers have an allocation of water volume protected from extraction to ensure long term sustainability?

No.

16. Is there any provision in the law/policy for the availability and accessibility of clean and healthy environmental spaces in non-domestic places such as schools, hospitals, workplaces, prisons, refugee camps, etc.?

We are not aware of such provisions..

17. Is there any provision in the law/policy for availability and accessibility of water and sanitation facilities in non-domestic places such as schools, hospitals, workplaces, prisons, refugee camps, etc.?

We are not aware of such provisions.

B. Quality and safety (SDG 6.1, 6.2, 6.3)

1. Are there parameters of quality and safety for drinking water established under law?

Article 51 of the Water Code states with regard to water quality and safety that "Feed waters must meet the standards of potability in force, in particular with regard to their physical, chemical, biological and bacteriological characteristics".

2. Is monitoring of drinking water quality or wastewater required by law/policy? If so, which actor is required to monitor it and how often (according to the law/policy)?

According to Article L.13 of the Public Hygiene Code, "in the case of public distribution of drinking water, the department dispenser or the dealer must verify at all times that the physical, chemical, biological and bacteriological standards that

determine potability are met.”

The National Hygiene Service sets how often sampling must occur. Hygiene officers are required to ensure that the above controls are respected. Hygiene officers must ensure the water quality, the periodic review of the degree of pollution of rivers, groundwater and propose the development of new standards, Article L.13 of the Public Hygiene Code.

According to article 56, paragraph 2 of the Water Code, “for the control of water quality, the health service or a laboratory approved by the administration is necessarily used”.

Ministerial decree n°4778 of 8 April 2013 establishes a technical committee responsible for the elaboration of a national strategy for improving and monitoring water quality. According to Article 2 of this provision, “the tasks of the Technical Committee are, inter alia, to supplement the studies already carried out and to make an exhaustive inventory of the problems of physico-chemical and bacteriological qualities of drinking water and of various uses, identify the different systems and/or technologies suitable for improving water quality in all affected areas of the country...”

3. Are there any regulations to control or monitor the quality of groundwater aquifers so that they do not become contaminated?

We have not identified any such regulations.

4. Do laws/regulations include guidance on the safe construction of water and sanitation infrastructure (e.g. to ensure no contact with excreta, ventilation, respect construction guidelines)?

According to article 55 of the Water Code, “the use of individual wells for human consumption is only permitted if all precautions are taken to protect these wells from contamination due to the proximity of latrines, septic tanks, manure deposits,

garbage, immondices and cemeteries”.

Article 78 of the Water Code also provides for measures to ensure water quality:

“Protective perimeters are areas created to protect water sampling points from the risks of pollution that may arise from various facilities located nearby. Their purpose is to ensure the protection of the water taken, and groundwater, surface and rivers”

According to article 5 of Decree No. 98-556 of 25 June 1998, “All boreholes, wells, sources, cisterns and other water points must be kept away from sources of pollution.

In particular:

- boreholes must be located at least 200 meters from contamination areas;
- water intakes at the level of rivers, lakes, etc. (...) must be located far from and upstream from the points of discharge of waste water;
- wells must be located at least ten meters from the dwellings; and
- buried or partially buried tanks shall be at least five hundred meters away from latrines, stables or manure.”

5. Do laws/regulations include requirements or guidance on safe emptying of latrines as well as safe treatment and disposal of treated sludge?

According to Article L.13 of the Sanitation Code of Senegal, “the discharge of unpurified effluents of domestic origin, excreta and sewage sludge into gutters, open-air rainwater channels or closed rainwater drainage pipes as well as onto the surface of natural or developed soils, is prohibited throughout the national territory.”

Similarly, Article L.20 the discharge of unpurified domestic effluents into rivers, ponds and sea is prohibited.

According to Article L.79 of the Sanitation Code, “the dumping and spills of materials from the emptying of septic tanks, in any

place whatsoever, are prohibited, unless they are carried out under the following conditions:

- temporarily in sealed and covered tanks ;
- in sewage treatment plants provided for in this effect; and
- in landscaped places such as the depositors.

The transport of sewage sludge is ensured by trucks approved by the Minister responsible for sanitation or delegates."

Article L. 83 of the Sanitation Code notes that "the conditions of collection, transport, dumping and dumping of materials from the emptying of pits are fixed by the decree adopted on joint proposals from minister responsible for sanitation and ministers responsible for the sectors of activity concerned"

6. Do laws/regulations establish requirements on household water treatment and storage (e.g. quality requirement with respect to water containers, rainwater harvesting limitations, etc.)?

The storage of water for household use is not specifically regulated by the Water Code. However, article L.12 of the Hygiene Code relating to public or special tanks provides:

"Tanks intended to collect rainwater shall be watertight and protected from external pollution. They have an aeration device with a stainless metal winching to a maximum size of millimeters to prevent insects and small animals from entering them. The inner walls must be made of materials inert to rainwater. They are equipped with special devices intended to keep the first washing water away from the roofs. A large element filter must stop foreign objects, such as dirt, gravel, leaves, trash and waste of all kinds. They must be thoroughly cleaned and disinfected once a year. On the cover of buried tanks, a turf coating is only tolerated, to the exclusion of any other culture. The use

of pesticides, organic or other smoke is prohibited. The conditions of protection of tanks comply with those prescribed for wells and sources."

C. Water pollution control (SDG 6.3, 6.6)

1. Are there legislative provisions concerning waste disposal activities? Which authorities are responsible for monitoring to determine if waste has caused pollution of bodies of water?

Article L 30 of the Environmental Code provides that "Waste must be disposed of or recycled in an environmentally sound manner in order to eliminate or reduce its harmful effects on human health, natural resources, fauna and flora or the quality of the environment."

Article L 31 of the Environmental Code goes on to state that "any Person, which produces or holds waste, must itself ensure its disposal or recycling or have it disposed of or recycled with companies approved by the Minister responsible for the Environment. Otherwise, it must hand over this waste to the local authority or to any Company approved by the state of Senegal for waste management. This Company, or the local authority itself, may sign contracts with producers or holders of waste for disposal or recycling. Recycling must always be done according to the standards in force in Senegal."

2. Is there legislation which regulates the contamination of groundwater? How is it addressed in practice?

According to Article 49 of the Water Code, "No discharge, discharge, discharge, direct or indirect deposit in a groundwater or a watercourse likely to modify its physical characteristics, including thermal and radio atomic, chemical, biological or bacteriological, may be made without authorization granted, after investigation, By the Ministers responsible for hydraulics and sanitation".

3. Do laws/regulations provide constraints on

the levels of nitrates and phosphates that are released into groundwater through agricultural land use?

We were unable to identify any laws / regulations on this point.

4. Is permission required to discharge effluents? What are the criteria used for considering applications and granting permits?

The Sanitation Code distinguishes between the types of effluents: those of domestic origin, those of rain origin, those of industrial origin and those of hospital origin. Depending on the case, the discharge of effluents is either prohibited or subject to authorization.

Article L 14 of the Sanitation Code provides, for example, that “no authorization for the discharge of domestic wastewater by infiltration, percolation or absorption shall not be delivered if the effluents discharge within 35 meters of a well or a source or within 15 meters of a surface water reserve or a watercourse whose offense of stretching is less than 5 cubic meters/second.”

According to Article L 16 of the Sanitation Code, “The authorization to connect a domestic sewage system to a public sewer may be issued only if the request is supported by the plans or diagrams of the connection requested, information on the volumes of water likely to be discharged and, where applicable, any other information intended to assess the quality of the effluent and the importance and timeliness of the requested connection”.

With regard to effluents of industrial origin, Article L 53 of the Sanitation Code provides that “any classified installation likely to discharge polluted water must, in order to be absorbed, attach to its application for authorization to construct a file describing the type of activity, the purification device it intends to put in place to comply with provisions of this Law, as well as the commitment to respect the pollution control standards set by the various codes and their

implementing texts.”

With regard to effluents of hospital origin, Article L 69 of the Sanitation Code provides that “the authorization of discharge of hospital wastewater into the sewer system is granted by the Minister responsible for Sanitation. The authorization shall fix, depending on the nature of the sewer system or the treatments used, the characteristics that hospital wastewater must have in order to be received.”

Article L 70 states as follows:

“The discharge of hospital wastewater into the sewer system requires the following precautions:

- The installation of a separating network, if the sewer network is itself of the separating type;
- Storage and recovery of laboratory chemicals, mercury from thermometers;
- The removal of fats and starch from kitchen waste water;
- The removal of oils and hydrocarbons from wastewater from workshops and garages. Waste oils must be stored and recovered by an approved company;
- The installation of a buffer basin at the outlet of the laundry, when there is production of waste water with a temperature above 30° c;
- Use from detergents at least 90% biodegradable;
- The amalgam separator installation when leaving dental offices;
- Disposal of radioactive products from waste water from nuclear medicine. These contaminated waters must be stored and recovered by an approved company; and
- The elimination of radiology products developers, fixatives, silver salts (...).”

Wastewater contaminated with these products must be stored and recovered by an approved company.

According to Decree No. 98-555 of 25 June 1998 implementing the Water Code relating to authorizations for the construction and use of catchment and discharge works, "The application for authorization must be addressed to the Minister responsible for hydraulics by any physical or moral Person wishing to discharge effluents directly" (Article 3).

5. Can waste discharge permits be lost/suspended/modified during their lifespan? Under what circumstances? Is compensation payable?

According to Article 13 of Decree No. 98-555 of 25 June 1998 implementing the Water Code, "If a ground of public interest has necessitated the withdrawal of an authorization, the owner of the work is entitled to an indemnity fixed either amicably or by the competent courts".

6. Are instances of pollution of water sources subject to penalties / fines? Which institution is in in charge of the administration of the penalties?

According to Article L 97 of the Environmental Code, "is punished by a fine of 500.000 F to 2.000.000 FCFA and a term of imprisonment of six (6) months to one (1) year or one of these two sentences, any Person having polluted sea and continental waters in violation of the corresponding provisions of this Law. In the event of recidivism, the maximum amount of penalties is doubled".

The administration of penalties when linked to criminal sanctions is within the jurisdiction of the courts.

"The Minister responsible for the Environment, or his representative, without Loss, initiates the prerogatives of other ministerial departments, legal proceedings for infringement of the provisions of this

Code" (article L 102 of the Environment Code).

According to Article L 103 of the Environmental Code, however, "in the event of a breach of the provisions of this Code, the Minister responsible for the Environment or his representative has the power to compromise".

D. Affordability (SDG 6.1)

1. How does law/policy address affordability of water supply and sanitation services?

Article 22 of Law 2008-59 governs the pricing system for public drinking water services.

It states that the "tariff schedule for the volumes of water consumed by subscribers must include one or more tranches, including a social tranche applied to domestic consumption". The individual tariff schedules are then to be fixed by decrees.

Article 23 of Law 2008-59 governs the pricing of collective sanitation services. It states that charges may be levied exclusively for the purpose of covering the costs for providing such sanitation services. This, in our view, should ensure the affordability of such services to a certain extent.

2. What mechanisms must be established by law/policy to ensure affordability of water and sanitation services?

Our research has identified no provisions or laws that require a mechanism to be established to ensure the affordability of water and sanitation services.

3. How are tariffs established and what is the process for updating these tariffs?

Article 22 of Law 2008-59 governs the pricing system for public drinking water services. It outlines that the tariff schedules are fixed by decree.

Article 23 of Law 2008-59 governs the pricing of collective sanitation services. It states that the charges may be levied by the licensed centres. This appears to imply, that within

the limits set by the law, the centres are free to set prices.

4. Does the tariff vary depending on the regions/circumstances?

A distinction must be made between licensed and unlicensed centers.

In licensed centers, the tariff scale varies by consumption band and by use (Article 22 of Law No. 2008-59).

In unlicensed centers the price of water is intended solely to cover operating costs (please see Article 22 of Law No. 2008- 59).

5. Which actors are responsible for and involved in setting and/or approving tariffs for water supply and sanitation services?

For licensed centres water prices are set by decree by the executive (please Article 22 of Law No. 2008-59).

For unlicensed centers the price of water is set by regulation (please see Article 22 of Law No. 2008- 59). Such regulation is generally to be enacted by the Ministry for Water and Sanitation. However, in line with Article 18 of Law No. 2008- 59 it may delegate this power to specific approved bodies. We were not able to identify whether such a delegation is currently in place.

6. Is disconnection from water supply and sanitation services for non- payment allowed? What procedures must be followed in such cases prior to disconnecting the supply and service? Are there any further consequences (other than shutoffs) for bill non-payment?

We understand that the supply of water on a consumer level is governed by individual contractual arrangements. Since our research has not identified any legislative provisions on the topic, the possibility to terminate such a contractual arrangement (including for non-payment) will depend on the mechanics within each individual contract.

E. Acceptability (SDG 6.1, SDG 6.2)

1. Is there provision in the law or contracts with service providers that relate to the need to take into account cultural and social dimensions of acceptability (e.g. colour or odour of water, or the positioning of a facility)?

Our research has identified no provisions or laws on the topic. We assume this is covered in the contracts between the Senegalese Government and the water and sanitation providers. However, please note that the contracts between Senegal's government and water and sanitation operators are not available to us. Thus, we are not able to answer this question definitively as far as the content of these contractual arrangements is concerned.

2. Is there provision in the law or contracts with service providers that relate to the need to ensure dignity and privacy (e.g., in workplaces, but also in the design of shared sanitation facilities for certain communities)?

Our research has identified no provisions or laws on the topic. Please also note that the contracts between Senegal's government and water and sanitation operators are not available to us. Thus, we are not able to answer this question as far as the content of these contractual arrangements is concerned.

3. Is there provision in the law or contracts with service providers that relate to the need to ensure that people affected by the service do not suffer from a reduction in the health of their environment?

Our research has identified no provisions or laws on the topic. Please also note that the contracts between Senegal's government and water and sanitation operators are not available to us. Thus, we are not able to answer this question as far as the content of these contractual arrangements is concerned.

F. Non-discrimination, equality, and

universal access (SDG 6.1, 6.2)

1. Is there any legislation about the prohibition of direct and indirect discrimination (on all grounds) and promotion of equality in accessing water and sanitation services?

Articles 8 and 25(2) of the Constitution state that “each (citizen) has the right to a healthy environment” and the “right to health”. In essence, these provisions protect the right to health and the right to a healthy environment, which can be seen as implicitly referring to a right to access water.

Article 9 of the Constitution stipulates that all infringements of the freedoms outlined in Article 8 of the Constitution and all interferences with the exercise of such freedoms are punishable by law. This, in our view, prohibits direct and indirect discrimination insofar as it would interfere with the right to access water as guaranteed by Article 8 and 25(2) of the Constitution.

In addition, Article 3 of Law 2008-59 regulating the public supply of drinking water stipulates that the use of water belongs to “everyone” within the framework of the laws and regulations in force. This access right is strengthened by Article 14 and 15 of Law 2008-59. The former requires each entity in charge of water supply to supply water to any person that requests to enter into a contract or subscription for the same. The latter then states that each entity in charge of water supply “shall be bound in all respects to a strict equal treatment of users”.

2. Is there provision in the law or contracts with service providers that relate to the need to ensure that people affected by the service do not suffer from a reduction in the health of their environment?

Articles 8 and 25(2) of the Constitution state that “each (citizen) has the right to a healthy environment”. This, in our view, protects citizens of Senegal from any unnecessary interference with the health of the environment by providers of water services.

In addition, the Water Code prohibits water service providers from certain practices without obtaining prior licensing. Please see our answers in Chapter 3 for more information on this.

Please also note that the contracts between Senegal’s government and water and sanitation operators are not available to us. Thus, we are not able to answer this question as far as the content of these contractual arrangements is concerned.

3. Are there any legal measures to protect the rights of those who are most vulnerable to, or at particular risk from, environmental harm, taking into account their needs, risks and capacities?

On a constitutional level, protection is offered only via the rights contained in Articles 8 and 25(2) of the Constitution (as discussed above).

However, to implement the UN Convention on the Rights of Persons with disabilities and to promote the rights of individuals with disabilities, Senegal has enacted Law No. 2010-15.

4. Is there any legal recognition for women in the empowerment, leadership, decision-making and full, equal and meaningful participation of women and girls, and the role that women play as managers, leaders and defenders of natural resources and agents of change in safeguarding the environment and water resources?

Article 7 of the Constitution states that men and woman have equal rights and that the law shall promote the equal access of man and women to all mandates and positions within Senegal, which includes roles that protect the environment and water resources. The Constitution thus does recognise the role of women in safeguarding the environment and water resources.

G. Right to information, Transparency (SDG 6.b)

1. **Is there any specific legislation about the right to seek, receive and impart information held by public authorities? Does the law expressly set out the right to seek, receive and impart information on water related issues?**

Article 8 of the Constitution provides each citizen of Senegal with the right to information. On a subnational level Law No. 2013-10 provides citizens of Senegal with the right to request information on local affairs from local councils and local authorities.

Our research did not identify any more specific sectorial legislation that expressly sets out the right to seek, receive and impart information on water related issues.

2. **Does the right to information require the payment of a fee? Is there a provision on the affordability of such fee?**

Article 8 of the Constitution does not address the conditions (including whether a payment of a fee is necessary) to exercise the right to information.

Article 6 of Law No. 2013-10 outlines that any costs associated with a request to a local council or a local authority are to be covered by the relevant citizen initiating the request. There are no provision on affordability

3. **Are there any exceptions with regard to who or what type of water and environment related information held by public authorities can be accessed?**

Article 8 of the Constitution or Article 6 of Law No. 2013-10 do not address the limits as to the right to request information.

4. **Which institutions are required by law/policy to make information on water public? Does it reference only the right to access information or also the obligation to make public such information on water related issues (e.g., are institutions obligated to provide information only upon demand, or are they obligated to publish or make available information at certain periodic intervals, on the occurrence of**

certain circumstances, etc.)?

Article 8 of the Constitution appears to bind all state actors. Article 6 of Law No. 2013-10 on the other hand only applies to local authorities.

Our research has not identified any provisions in the laws of Senegal that require state actors to make public information on water related issues on a periodic basis.

5. **Are there requirements in relation to the language, locations, format, timing and means used for providing water and environment related information to the public? What mechanisms are in place to ensure information is made available to all including to minorities?**

Our research has not identified any provisions in the laws of Senegal in relation to the language, locations, format, timing and means used for providing water and environment related information to the public.

6. **Are there any mechanisms to ensure that education on the importance of a healthy environment is included in school curricula, and that the link is made with sustainable drinking water supplies?**

Pursuant to Article 25(2) of the Constitution, the government of Senegal has the responsibility to promote environmental education. Our research has not identified any further provisions in the laws of Senegal in relation to this.

7. **Are there any legal provisions requiring certain authorities to educate the population on water related issues?**

Pursuant to Article 25(2) of the Constitution, the government of Senegal has the responsibility to promote environmental education, which should include education on water related issues. Our research has not identified any other provisions in the laws of Senegal in relation to this.

8. **Are there any requirements in relation to access to information in contracts with**

water and sanitation operators?

The contracts between Senegal's government and water and sanitation operators are not available to us. Thus, we are not able to answer this question.

H. Public participation (SDG 6.5.1, 6.b)

1. Is there a law/policy which addresses public participation?

With regard to local councils and a local authorities citizen participation is addressed in Section 2 of Law No. 2013-10.

Our research has identified no other provisions or laws on the topic.

2. What are the criteria listed in the law/policy in relation to participation in water-related issues (e.g. allocated time to provide comments, invitation to public hearings, etc.)?

Section 2 of Law No. 2013-10 does not specifically address the participation of the public with regard to water related issues.

3. Do the contracts between governmental authorities and operators of water and sanitation services impose upon the operators an obligation to ensure or provide for public participation at any levels at which the applicable services are delivered?

The contracts between Senegal's government and water and sanitation operators are not available to us. Thus, we are not able to answer this question.

4. Is the establishment of an IWRM mechanism including regional or local associations or other groupings of water users provided for and regulated by laws or regulations? How do they interact with or connect into other agencies or regulators?

The Higher Water Council was established pursuant Decree No. 98-557 and "decides the main options for water management, ensures compliance with the regulations relating to the Management of international waters, and decides on any other issue

related to the management and control of water resources" (see Decree No. 98-557 establishing a higher Water Council, Articles 2 and 4). It consists of representatives of multiple ministries (please also see our answer to question 2 in Section C in Chapter 1) and reflects Senegal's cross-sectorial approach to water management.

The Higher water Council determines the policies that are then implemented by the Ministry for Water and Sanitation.

I. Sustainability (SDG 6.4, 6.5, 6.6)

1. How does legislation/policy ensure that water and sanitation services are delivered in an improved and sustainable manner, considering the availability of water resources, competing demands and generally the needs of present and future generations?

Our research has not identified a specific piece of legislation that ensures that water and sanitation services are delivered in an improved and sustainable manner, considering the availability of water resources, competing demands and generally the needs of present and future generations. In addition, as per its scope provisions, Law 2008-59 that regulates the public supply of drinking water does also not govern this topic.

However, Law No. 83-05 establishing the Environmental Code addresses water pollution more generally.

2. How does legislation/policy ensure that water and sanitation services are delivered in a sustainable manner to rural and deprived urban areas?

Our research has not identified a specific piece of legislation that ensures that water and sanitation services are delivered in a sustainable manner to rural and deprived urban areas.

3. How does the legislation/policy ensure that delivery of water and sanitation services are

economically sustainable, with sufficient expenditure for operation and maintenance and the protection of the environment?

Article 22 of Law 2008-59 governs the pricing system for public drinking water services. It states that any such services provided by licensed entities must be priced in a manner that preserves the financial health of the drinking water supply sector. Unlicensed entities on the other hand must set prices to at least cover operating costs.

Article 23 of Law 2008-59 governs the pricing of collective sanitation services. It states that charges may be levied exclusively for the purpose of covering the costs for providing such sanitation services.

Both articles should ensure that water and sanitation services are economically sustainable.

4. How does the legislation/policy reduce the number of people suffering from water scarcity by optimising water use efficiency across all sectors, and ensuring sustainable withdrawals?

Our research has not identified a specific piece of legislation that addresses this point.

5. Is there any legislation/policy to protect and restore water-related ecosystems, including mountains, forests, wetlands, rivers, aquifers and lakes:

Yes, for example please see:

- Law No. 83-05 establishing the Environmental Code;
- Law No. 2001-01 on the Environmental Code;
- Senegal's Forest Policy 2005-2025;
- Senegal's National Strategy for the Management of Protected Areas of Senegal (2011); and
- National Strategy for Marine Protected Areas (MPA) of Senegal (2013).

J. Accountability/ Remedies and complaint procedures

1. Are there remedies provided by law/regulations to file complaints or other ways of accessing justice in reference to water, sanitation and a healthy environment? Who may file them? Are the decisions appealable?

Article 91 of the Constitution states that the judicial power is the guardian of the rights and freedoms defined by the Constitution. The judicial power in Senegal is exercised by the Constitutional Council, the Supreme Court, the Court of Accounts and the Courts and Tribunals (please see Article 88 of the Constitution). This appears to open the possibility for citizens to seek justice with regard to the right to health and a healthy environment enshrined in Article 8 of the Constitution at the courts of Senegal.

2. Are there possibilities for financial assistance for legal counsel in cases concerning water, sanitation and a healthy environment?

We have not found any provisions for possible financial assistance for lawyers in water and sanitation cases. To the contrary, it appears that Senegal does not have comprehensive legal aid legislation or policies.¹⁴

3. Who monitors water & sanitation service providers?

The Ministry of Water and Sanitation (please see Law 2008-59).

4. Is there a possibility to appeal against the decisions of service providers? With whom would such an appeal be lodged, and under which conditions is such an appeal possible?

Our research has not identified any specific provisions in the laws of Senegal on this topic. However, where contractual arrangements are concerned it seems possible that claims can be made to the

¹⁴ Please see: [https://www.unodc.org/documents/evaluation/Inde](https://www.unodc.org/documents/evaluation/Independent%20Project%20Evaluations/2021/Final%20Evaluation%20Report%201819U.pdf)

[pendent Project Evaluations/2021/Final Evaluation Report 1819U.pdf](https://www.unodc.org/documents/evaluation/Independent%20Project%20Evaluations/2021/Final%20Evaluation%20Report%201819U.pdf)

courts of Senegal.

5. **Are there any protective mechanisms to ensure that there is a safe and enabling environment in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence?**

The freedom of opinion, freedom of expression, freedom of the press, freedom of association, and freedom of assembly are guaranteed by Article 8 of the Constitution.

Individuals, groups and organs of society that work on human rights or environmental issues also enjoy the protection offered by the criminal laws of Senegal offered to all

individuals.

6. **Is there any legislation to respect and protect the rights to freedom of expression, association and peaceful assembly in relation to environmental matters?**

There are no provision to specifically address the rights to freedom of expression, association and peaceful assembly in relation to environmental matters. However, the Constitution does protect the freedom of opinion, freedom of expression, freedom of the press, freedom of association, and freedom of assembly generally and provides for a right to a healthy environment.

CHAPTER 5. JUDICIARY SYSTEM

A. Preliminary questions

1. **What is the relationship between international law and national law (i.e. is the state a monist or dualist system--how is international law interpreted in relation with domestic law)?**

Senegal is recognised as a monist state. According to Article 98 of the Constitution, "treaties or agreements regularly ratified or approved have, as soon as they are published, an authority superior to that of

laws, subject, for each agreement or treaty, to its application by the other party". Moreover, Article 97 of the Constitution clears this question by providing that where an international agreement has a provision contrary to the Constitution, the authorization of ratification or approval may only intervene after the amendment of the

Constitution.¹⁵

2. What is the hierarchical structure of the legal system?

The most recent constitution in Senegal is the Constitution of 22 January 2001, which has been amended in 2016. A law revised the Constitution in 2019 (n°2019-10).

Judicial power is vested in several different institutions: the Constitutional Council deals with constitutional matters, which as of to date do not expressly include human rights issues; the *Conseil d'Etat* (State Council) deals with administrative matters; the Court of Cassation deals with criminal matters; the *Cour des Comptes* is charged with checking public accounts, and other courts and tribunals also exist. Each of these superior courts is at the top of the hierarchy of courts for their specified jurisdictions.

Senegal has a legal system based in French civil law and is a semi-presidential liberal democratic republic.¹⁶ (Article 1 of the constitution for the democratic republic).

3. Has the State ratified the relevant international conventions establishing regional or international complaint mechanisms?

Senegal is subject to the UEMOA Court of Justice since 1994 (as part of the West African Economic and Monetary Union), the ECOWAS Court (as part of the Economic Community of West African States) of Justice since 1975, the African Court on Human and Peoples' Rights since 2002 and the Optional Protocol to the ICCPR since 1978.

It is noted that, according to Adjolohoun's article¹⁷, while the general legal framework in Senegal is also in favour of the promotion

and protection of human rights, although the country has not enacted sufficient legislation to respect implementation clauses in major human rights treaties. However, some efforts have been made by certain state institutions. The following state organs have been established and are involved in the promotion and protection of human rights:

- *The Haut-Commissariat aux Droits de l'Homme et à la Promotion de la Paix* :

Established in 2004 and led by a lawyer and government minister, the Commission includes a *Guichet des droits de l'homme* (a board) in charge of receiving complaints and making suggestions to the President of the Republic on subsequent responses. The Commission also comprises a follow-up working group in charge of following the implementation of observations and recommendations made by the *Comité Sénégalais des Droits de l'Homme*.

- *The Comité Sénégalais des Droits de l'Homme* :

The Senegalese Human Rights Committee is the state human rights institution. Originally, it acted as a representative of trade unions and youth and women's movements. Its functions have subsequently been enlarged, as it serves as an intermediary between public powers and human rights non-governmental organisations, and coordinates the work of those organisations. In 1997, the Committee became an independent tripartite and advisory body for

¹⁵ Hauser Global Law School Program . (n.d.). Visiting the Senegalese Legal System and Legal Research: A Human Rights Perspective. Retrieved from nyulawglobal: <https://www.nyulawglobal.org/globalex/SENEGAL.html>

¹⁶ London School of Economics . (n.d.). Climate

Change Legislation in Senegal: an excerpt from the 2015 global climate legislation study - A review of climate change legislation in 99 countries . Retrieved from lse.ac.uk: <https://www.lse.ac.uk/GranthamInstitute/wp-content/uploads/2015/05/SENEGAL.pdf>

¹⁷ Ibid.

dialogue, consultation and promotion of human rights. The Committee was in practice the body chosen by the Government to make proposals for the implementation of the decisions of the human rights bodies, such as the Human Rights Committee (HRC).

- *The Ombudsman (Médiateur)*
Traditional attributions and powers of the Ombudsman have been extended to preventive intervention and proprio mutuo seizure. Further, it has competence to settle different conflicts between public administration and private corporations. (instituted by law no. 99-04 of 29 January 1999 repealing and replacing law no. 91-14 of 11 February 1991.)
- *The Comité inter-ministériel des droits de l'homme et du droit international humanitaire*
This body is an inter-ministerial Committee on Human Rights and Humanitarian International Law, which complements the work of the Senegalese Human Rights Committee and represents Senegal in international human rights bodies. (Decree no. 97-674 of 2 July 1997)

B. Remedies and complaint procedures/accountability

1. **Are there remedies provided by law to file complaints or other ways of accessing justice in reference to water and sanitation and a healthy environment? Who may file them? Are the decisions appealable?**

It is possible to appeal decisions handed down by the court of first instance. Law n°2014-26 of 03 november 2014 / decree n°2015-1145 of 03 august 2015 / decree n°2015-1039 of 20 July 2015.

Note, with respect to any hygiene related judgements under Law No. 83-71 of 1983 on

the Hygiene Code, as per Article 68, hygiene judgments shall be notified to the Director of Hygiene and Health Protection or to his representative. The latter may, concurrently with the Prosecutor of the Republic, appeal judgments in first instance.

Upon appeal by either Parties, the Director of Hygiene and Health Protection may be invited to present the case to the Court of Appeal and to file his conclusions. The Director of Hygiene and Health Protection may also, with the Public Prosecutor, appeal for cassation against judgments rendered as a last resort.

2. **Are such complaint procedures required to be provided in conformity with human rights principles (such as non-discrimination, equity)?**

Senegal has ratified the main human rights instruments, which impose the principles of judicial independence and equality before the Law (Article 14 of the ICCPR, Articles 3 and 26 of the African Charter on Human and Peoples' Rights).

The principle of the independence of the judiciary is also affirmed in Article 88 of the Constitution.

3. **Does the law provide for financial assistance for legal counsel in cases concerning water and sanitation or access to a healthy environment?**

We have not found any provisions for possible financial assistance for lawyers in water and sanitation cases.

4. **Who monitors the administrative level bodies and/or service providers?**

As per Article 7 of Law No. 95-10 of 1995 regarding the creation of the National Water Company of Senegal, Senegalese water is monitored and governed by the National Water Company of Senegal, a public-private partnership. Note, within its remit is to supervise the water sector and also functions as an independent sector regulator.

With respect to all matters concerning the

environment, as per Article 5 of Law No. 2001-01 of 2001 on the Environmental Code, the Ministry of Environment is responsible for and mandated to work closely with all other ministerial departments involved directly or in-directly in the field of the environment, including other local authorities in Senegal. The Ministry of Environment, through its competent technical services, is responsible for the coordination of all environmental protection activities as well as implementation of the national policy for protection of the environment. The Ministry of Environment is also responsible for cooperation between the government, local communities, associations, and governmental and non-governmental entities. (Article 4)

5. **Is there a possibility to appeal against the decisions of service providers? With whom would such an appeal be lodged, and under which conditions is such an appeal possible?**
It should be noted that there is not yet a Water Sector Regulatory Authority in Senegal.

In addition, with respect to the environmental matters, Law No. 2001-01 of 2001 on the Environmental Code does not include a separate authority to appeal any environmental decisions. However Article 17 of the Environmental Code sets out that the grounds and procedures for a claim under the Environmental Code shall be determined by a ministerial order and, possibly, by supplementary orders by the Minister responsible for the Environment after consulting with the Minister responsible for Industry and the Minister responsible for Civil Protection.

Appeals against decisions of service providers could therefore be made, inter alia, before the courts.

The conditions required for appealing a

decision are unclear based on the legislative framework.

6. **What remedies are available at an administrative level?**
Our research does not have provide any answers to this question.
7. **Who monitors these administrative level bodies?**
Ibid.
8. **Are such administrative bodies legally independent entities according to the law?**
Ibid.
9. **Is there any evidence (e.g., case law) that courts in the country have (or may have) jurisdiction to enforce any economic, social or cultural rights?**

We have not found any Senegalese jurisprudence with respect to the enforcement of any economic, social or cultural rights.

It is noted that while Senegal is a civil based system (not common law system) and that Law reporting is also done through the Gazette, Adjolohoun¹⁸ notes that, “*accessing legal instruments in force within the Senegalese legal order, or cases decided by domestic courts, is challenging*”.

10. **Do courts in the country have jurisdiction to hear cases regarding the obligations to respect, protect and fulfil the human rights to water, sanitation and a healthy environment? Is there any existing case law?**

Law No. 2009-24 of 2008 on the Sanitization Code (the “**Sanitization Code**”) includes an express prohibition in Article 13 on discharge of any unpurified effluents into rivers, ponds, the sea, gutters, open rainwater canals or closed rainwater drainage pipes and onto the surface of natural or developed soils.

¹⁸ Hauser Global Law School Program . (n.d.). Visiting the Senegalese Legal System and Legal Research: A Human Rights Perspective. Retrieved from

nyulawglobal:
<https://www.nyulawglobal.org/globalex/SENEGAL.html>

Article 29 of the Sanitization Code includes similar expression prohibitions. While not directly related, under Article 19, it sets out that those in breach of Article 18 of the Sanitization Code may be liable for the payment of taxes and charges applied to users of public sewers, notwithstanding any constraints which may be imposed against it under criminal provisions of the Sanitization Code.

With respect to the environment, Article 1 of Law No. 2001-01 of 2001 on the Environment Code (the “**Environmental Code**”) provides an express right to a healthy environment, “*Everyone has the right to a healthy environment under the conditions defined by international texts, this Code and other environmental protection laws. This right is accompanied by an obligation to protect the environment*”.

In addition, a person may be able to rely on the protections of the right to water and a safe environment through other rights that are protected such as the right to health, the right to a healthy environment (Article 8 of the Constitution), the right to life (Article 7 of the Constitution).

We have not been able to find any court decision on issues of the right to water and sanitation.

11. Do courts in the country have jurisdiction to hear cases regarding the obligations to respect, protect and fulfil the human rights to a healthy environment? Is there any existing case law?

Based on the express rights provided under the Environmental Code and Sanitization Code, the courts do have jurisdiction to hear cases regarding the obligations to respect, protect and fulfil the human rights to a healthy environment.

The question of implementation is challenging to determine as we have not been able to find any case law.

12. Provide a brief overview of the judicial procedure involving a human rights violation case.

In the event of a human rights violation, the complainant must first apply to a court of first instance. In the event of an appeal, the competent Court of Appeal may be seized, and finally the Court of Cassation.

13. Is there a Constitutional /Supreme Court? Are cases heard as the last appeal or may cases be referred directly?

Yes, as noted above, the Constitutional Council deals with constitutional matters, which as of to date do not expressly include human rights issues; the *Conseil d’Etat* (State Council) deals with administrative matters; the Court of Cassation deals with criminal matters; the *Cour des Comptes* is charged with checking public accounts.

As per Article 92 of the Constitution, Constitutional Council considers “*the constitutionality of the laws and of the international commitments, of the conflicts of competence between the executive and the legislative power, as well as of the exceptions pleadings of unconstitutionality raised before the Court of Appeal or the Supreme Court*”.

14. Have domestic courts applied international human rights law in past cases or have they referred to decisions from international human rights bodies (with reference to water, sanitation and the environment)?

We have not been able to find any information on this.

15. Are court proceedings conducted in only one principal language, or are they also conducted in local languages, including minority and indigenous languages? Does the law require that information is made available in local languages?

As per Article 1 of the Constitution, the official language of Senegal is French and “*the national languages are the Diola, the Malinké, the Pular, the Sérère, the Soninké and the Wolof and any other national*”.

languages which shall be codified."

Consequently, all legal texts, written laws, court decisions, official papers and documents, including the constitution, are in French. However, we understand that litigants may be assisted by interpreters.

16. Have domestic courts applied (or referenced) recommendations of national human rights institutions?

During our research, we have not found any application of the recommendations of the Senegalese Human Rights Committee by the national courts.

C. National human rights institutions

1. Is there an independent national human rights institution?

Yes. The Senegalese Committee of Human Rights (CSDH).

2. Does the mandate of the national human rights institution cover the entire human rights framework, including economic, social and cultural rights?

Yes. As per Article 1 of Law 97-04 of 10 March 1997, the CSDH is an independent institution that covers all aspects of human rights in Senegal.

3. Is the national human rights institution authorized to receive and adjudicate complaints of violations of human rights to water, sanitation and a healthy environment?

No.

4. Does the national human rights institution have a legal basis or authority to initiate an action to address systemic human rights violations?

Not explicitly, please refer to answer below.

5. What type of remedies does the national human rights institution have the authority to impose?

[According to article 2 of Law 97-04 of 10 March 1997:

"The Senegalese Human Rights Committee may, on its own initiative or at the request of the Government, the National Assembly or any other authority competent for the promotion and protection of human rights: Issue opinions or recommendations on all human rights issues, including amendments to existing human rights laws, regulations and administrative practices.

Draw the attention of the Government to cases of human rights violations and propose, if necessary, measures to put an end to them."

They also have more remedies imposed under Article 3 of Law 97-04 of 10 March 1997.

6. Is the institution allowed to initiate investigations/hearings?

No.

7. Does the national human rights institution have the authority to monitor how remedies for violations of rights to water, sanitation and a healthy environment are implemented by governmental authorities, service providers or other agencies/entities?

Not according to the existing law but based on Article 3 of Law 97-04 of 10 March 1997, they may use their powers in connection with violations of rights to water, sanitation and a healthy environment.

D. Regulation

1. Is there a water regulator established by law?

Yes. The Ministry of Water and Sanitation led by Mr. Mansour Faye.

The Ministry's of Water and Sanitation's objectives are set forth in The Decree 2012-654 of 4 July 2012 entrusted the preparation and implementation of the policy defined by the Head of State in the fields of hydraulic

and sanitation.¹⁹

2. Is the water regulator an independent entity?

We are unable to source/verify information to this question.

3. What are the oversight mechanisms and responsibilities related to drinking water supply and sanitation services of the regulator?

The Ministry of Water and Sanitation are responsible for ensuring access to clean drinking water in rural, urban and suburban areas as well as the implementation of tariff policies for the drinking water supply.

mandated to ensure the maintenance of equipment for the collection, disposal and treatment of wastewater and rainwater. As well as collecting, transporting and recycling household and industrial liquid waste.

Decree no. 2012-654 of 4 July 2012 on the assignments of the Minister for Water and Sanitation.

The Ministry of Water and Sanitation is also

ANNEX 1: TARGETS AND INDICATORS OF SDG 6

Source: Sustainable Development Goal 6 - Synthesis Report on Water and Sanitation (2018), Table 1

¹⁹

<https://www.senegal.org/en/administration/executi>

<ve-power/ministers/orgdetails/219>

ANNEX 2: The human rights to water and sanitation and the right to a

TARGET	INDICATOR (CUSTODIAN AGENCIES)
6.1 By 2030, achieve universal and equitable access to safe and affordable drinking water for all	6.1.1 Proportion of population using safely managed drinking water services (World Health Organization (WHO)/United Nations Children's Fund (UNICEF))
6.2 By 2030, achieve access to adequate and equitable sanitation and hygiene for all and end open defecation, paying special attention to the needs of women and girls and those in vulnerable situations	6.2.1a Proportion of population using safely managed sanitation services (WHO/UNICEF) 6.2.1b Proportion of population using a handwashing facility with soap and water available (WHO/UNICEF)
6.3 By 2030, improve water quality by reducing pollution, eliminating dumping and minimizing release of hazardous chemicals and materials, halving the proportion of untreated wastewater and substantially increasing recycling and safe reuse globally	6.3.1 Proportion of wastewater safely treated (WHO/United Nations Human Settlements Programme (UN-Habitat)/United Nations Statistics Division (UNSD)) 6.3.2 Proportion of bodies of water with good ambient water quality (United Nations Environment Programme/UNSD)
6.4 By 2030, substantially increase water-use efficiency across all sectors and ensure sustainable withdrawals and supply of freshwater to address water scarcity and substantially reduce the number of people suffering from water scarcity	6.4.1 Change in water-use efficiency over time (Food and Agriculture Organization of the United Nations (FAO)) 6.4.2 Level of water stress: freshwater withdrawal as a proportion of available freshwater resources (FAO)
6.5 By 2030, implement integrated water resources management at all levels, including through transboundary cooperation as appropriate	6.5.1 Degree of integrated water resources management implementation (0–100) (United Nations Environment Programme) 6.5.2 Proportion of transboundary basin area with an operational arrangement for water cooperation (United Nations Educational, Scientific and Cultural Organization (UNESCO)/United Nations Economic Commission for Europe (UNECE))
6.6 By 2020, protect and restore water-related ecosystems, including mountains, forests, wetlands, rivers, aquifers and lakes	6.6.1 Change in the extent of water-related ecosystems over time (United Nations Environment Programme/Ramsar Convention)
6.a By 2030, expand international cooperation and capacity-building support to developing countries in water- and sanitation-related activities and programmes, including water harvesting, desalination, water efficiency, wastewater treatment, recycling and reuse technologies	6.a.1 Amount of water- and sanitation-related official development assistance that is part of a government-coordinated spending plan (WHO/United Nations Environment Programme/Organization for Economic Cooperation and Development (OECD))
6.b Support and strengthen the participation of local communities in improving water and sanitation management	6.b.1 Proportion of local administrative units with established and operational policies and procedures for participation of local communities in water and sanitation management (WHO/United Nations Environment Programme/OECD)

healthy environment compared

Table 1: Comparison of the human rights principles

Principles of the Human Right to a Healthy Environment (from Framework Principles)	Principles of the Human Rights to Water and Sanitation (from General Comment No.15)
Human Rights	
<p>Principle 1.</p> <p>States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights.</p>	<p>GC 1. Water is a limited natural resource and a public good fundamental for life and health. The human right to water is indispensable for leading a life in human dignity. It is a prerequisite for the realization of other human rights.</p> <p>GC 20. The right to water, like any human right, imposes three types of obligations on States parties: obligations to respect, obligations to protect and obligations to fulfil.</p>
Sustainable environment	
<p>Principle 2.</p> <p>States should respect, protect and fulfil human rights in order to ensure <u>a safe, clean, healthy and sustainable environment</u></p>	<p><i>Respect:</i> GC 21: The obligation to <i>respect</i> requires that States parties refrain from interfering directly or indirectly with the enjoyment of the right to water. The obligation includes, inter alia, refraining from engaging in any practice or activity that denies or limits equal access to adequate water; arbitrarily interfering with customary or traditional arrangements for water allocation; <u>unlawfully diminishing or polluting water</u>, for example through waste from State-owned facilities or through use and testing of weapons; and limiting access to, or destroying, water services and infrastructure as a punitive measure, for example, during armed conflicts in violation of international humanitarian law.</p> <p><i>Protect:</i> GC 23. The obligation to <i>protect</i> requires States parties to prevent third parties from interfering in any way with the enjoyment of the right to water. Third parties include individuals, groups, corporations and other entities as well as agents acting under their authority. The obligation includes, inter alia, adopting the necessary and effective legislative and other measures to restrain, <u>for example, third parties from denying equal access to adequate water; and polluting and inequitably extracting from water resources, including natural sources, wells and other water distribution systems.</u></p> <p><i>Fulfill:</i> GC26. The obligation to fulfil requires States parties to adopt the necessary measures directed towards the full realization of the right to water. ... and facilitating improved and <u>sustainable access to water, particularly in rural and deprived urban areas.</u></p>

	GC.11. The manner of the realization of the right to water must also be <u>sustainable, ensuring that the right can be realized for present and future generations.</u>
Non-Discrimination	
Principle 3. States should <u>prohibit discrimination</u> and ensure equal and effective protection against discrimination in relation to the enjoyment of a safe, clean, healthy and sustainable environment.	GC. 15. With respect to the right to water, States parties have a special obligation to provide those who do not have sufficient means with the necessary water and water facilities and <u>to prevent any discrimination</u> on internationally prohibited grounds in the provision of water and water services.
Safety and freedom of expression	
Principle 4. States should provide <u>a safe and enabling environment</u> in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence	GC, 44,b Violations of the obligation to protect follow from the failure of a State to <u>take all necessary measures to safeguard persons</u> within their jurisdiction from infringements of the right to water by third parties.
Principle 5. States should respect and protect the rights to freedom of expression, association and peaceful assembly in relation to environmental matters.	
Public Awareness and education	
Principle 6. States should provide for <u>education and public awareness on environmental matters.</u>	GC, 25. The obligation to fulfil can be disaggregated into the obligations to facilitate, promote and provide. The obligation to promote obliges the State party to take steps to ensure that there is <u>appropriate education concerning the hygienic use of water, protection of water sources and methods to minimize water wastage.</u> Article 24, para. 2, of the Convention on the Rights of the Child requires States parties to “To ensure that <u>all segments of society [...] have access to education and are supported in the use of basic knowledge of [...] the advantages of [...] hygiene and environmental sanitation.</u> ”
Access to Information	
Principle 7. States should provide <u>public access to environmental information</u> by collecting and disseminating information and by providing affordable, effective and timely access to information to any person upon request.	GC 48. The formulation and implementation of national water strategies and plans of action should respect, inter alia, the principles of non-discrimination and people's participation. The right of individuals and groups to participate in decision-making processes that may affect their exercise of the right to water must be an integral part of any policy, programme or strategy concerning water. <u>Individuals and groups should be given full and equal access to information</u>

	<u>concerning water, water services and the environment, held by public authorities or third parties.</u>
Accountability	
<p>Principle 8.</p> <p>To avoid undertaking or authorizing actions with environmental impacts that interfere with the full enjoyment of human rights, States should require the prior assessment of the possible environmental impacts of proposed projects and policies, including their potential effects on the enjoyment of human rights.</p>	<p>56. Before any action that interferes with an individual's right to water is carried out by the State party, or by any other third party, the relevant authorities must ensure that such actions are performed in a manner warranted by law, compatible with the Covenant, and that comprises: (a) opportunity for genuine consultation with those affected; (b) timely and full disclosure of information on the proposed measures; (c) reasonable notice of proposed actions; (d) legal recourse and remedies for those affected; and (e) legal assistance for obtaining legal remedies</p> <p>GC 24. Where water services (such as piped water networks, water tankers, access to rivers and wells) are operated or controlled by third parties, States parties must prevent them from compromising equal, affordable, and physical access to sufficient, safe and acceptable water. To prevent such abuses an effective regulatory system must be established, in conformity with the Covenant and this General Comment.</p>
Public Participation	
<p>Principle 9.</p> <p>States should provide for and facilitate <u>public participation in decision-making related to the environment</u> and take the views of the public into account in the decision-making process.</p>	<p>GC 48. The formulation and implementation of national water strategies and plans of action should respect, inter alia, the principles of non-discrimination and people's participation. <u>The right of individuals and groups to participate in decision-making processes that may affect their exercise of the right to water must be an integral part of any policy, programme or strategy concerning water.</u> Individuals and groups should be given full and equal access to information concerning water, water services and the environment, held by public authorities or third parties.</p>
Remedies	
<p>Principle 10.</p> <p>States should provide for <u>access to effective remedies for violations</u> of human rights and domestic laws relating to the environment</p>	<p>55. Any persons or groups who have been denied their right to water should have <u>access to effective judicial or other appropriate remedies</u> at both national and international levels</p>
Standards and Indicators	
<p>Principle 11.</p> <p>States should establish and maintain <u>substantive</u></p>	<p>53. To assist the monitoring process, <u>right to water indicators should be identified in the national water strategies or plans of action.</u> The indicators</p>

<p><u>environmental standards</u> that are non-discriminatory, non-retrogressive and otherwise respect, protect and fulfil human rights.</p>	<p>should be designed to monitor, at the national and international levels, the State party's obligations under articles 11, paragraph 1, and 12. Indicators should address the different components of adequate water (such as sufficiency, safety and acceptability, affordability and physical accessibility), be disaggregated by the prohibited grounds of discrimination, and cover all persons residing in the State party's territorial jurisdiction or under their control.</p>
Violations	
<p>Principle 12.</p> <p>States should ensure the effective enforcement of their environmental standards against public and private actors.</p>	<p>GC 55. All victims of violations of the right to water should be <u>entitled to adequate reparation</u>, including restitution, compensation, satisfaction or guarantees of non-repetition. National ombudsmen, human rights commissions, and similar institutions should be permitted to address violations of the right.</p>
International Cooperation	
<p>Principle 13.</p> <p>States should cooperate with each other to establish, maintain and enforce effective international legal frameworks in order to prevent, reduce and remedy transboundary and global environmental harm that interferes with the full enjoyment of human rights.</p>	<p>GC 30. Article 2, paragraph 1, and articles 11, paragraph 1, and 23 of the Covenant require that States parties recognize the essential role of international cooperation and assistance and take joint and separate action to achieve the full realization of the right to water.</p> <p>GC 38. For the avoidance of any doubt, the Committee wishes to emphasize that it is particularly incumbent on States parties, and other actors in a position to assist, to provide international assistance and cooperation, especially economic and technical which enables developing countries to fulfil their core obligations indicated in paragraph 37 above.</p>
Non-Discrimination	
<p>Principle 14.</p> <p>States should take additional measures to <u>protect the rights of those who are most vulnerable to, or at particular risk from, environmental harm</u>, taking into account their needs, risks and capacities.</p>	<p>16. Whereas the right to water applies to everyone, States parties should give <u>special attention to those individuals and groups who have traditionally faced difficulties in exercising this right</u>, including women, children, minority groups, indigenous peoples, refugees, asylum seekers, internally displaced persons, migrant workers, prisoners and detainees.</p>
<p>Principle 15.</p> <p>States should ensure that they <u>comply with their obligations to indigenous peoples</u> and members of traditional communities, including by:</p> <ol style="list-style-type: none"> a. Recognizing and protecting their rights to the lands, territories and resources that they have traditionally 	<p>GC 7. The Committee notes the importance of ensuring sustainable access to water resources for agriculture to realize the right to adequate food (see General Comment No.12 (1999)). Attention should be given to <u>ensuring that disadvantaged and marginalized farmers, including women farmers, have equitable access to water and water management systems, including sustainable rain</u></p>

<p>owned, occupied or used.</p> <p>b. Consulting with them and obtaining their free, prior and informed consent before relocating them or taking or approving any other measures that may affect their lands, territories or resources.</p> <p>c. Respecting and protecting their traditional knowledge and practices in relation to the conservation and sustainable use of their lands, territories, and resources.</p> <p>d. (d) Ensuring that they fairly and equitably share the benefits from activities relating to their lands, territories, or resources.</p>	<p>harvesting and irrigation technology. Taking note of the duty in article 1, paragraph 2, of the Covenant, which provides that a people may not “be deprived of its means of subsistence”, States parties should ensure that there is <u>adequate access to water for subsistence farming and for securing the livelihoods of indigenous peoples.</u></p> <p>GC 16 (d) 16... In particular, States parties should take steps to ensure that:</p> <p>...(c) Rural and deprived urban areas have access to properly maintained water facilities. Access to traditional water sources in rural areas should be protected from unlawful encroachment and pollution. Deprived urban areas, including informal human settlements, and homeless persons, should have access to properly maintained water facilities. No household should be denied the right to water on the grounds of their housing or land status; (d) <u>Indigenous peoples’ access to water resources on their ancestral lands is protected from encroachment and unlawful pollution. States should provide resources for indigenous peoples to design, deliver and control their access to water;</u> (e) Nomadic and traveler communities have access to adequate water at traditional and designated halting sites; (f) Refugees, asylum-seekers, internally displaced persons and returnees have access to adequate water whether they stay in camps or in urban and rural areas. Refugees and asylum-seekers should be granted the right to water on the same conditions as granted to nationals;</p>
<p>Sustainability</p>	
<p>Principle 16.</p> <p>States should respect, protect and fulfil human rights in the actions they take to <u>address environmental challenges and pursue sustainable development.</u></p>	<p>11. The elements of the right to water must be adequate for human dignity, life and health, in accordance with articles 11, paragraph 1, and 12. The adequacy of water should not be interpreted narrowly, by mere reference to volumetric quantities and technologies. Water should be treated as a social and cultural good, and not primarily as an economic good. The manner of the realization of <u>the right to water must also be sustainable, ensuring that the right can be realized for present and future generations.</u></p> <p>26. The obligation to fulfil requires States parties to adopt the necessary measures directed towards the full realization of the right to water. The obligation includes, inter alia, according sufficient recognition of this right within the national political and legal systems, preferably by way of</p>

	legislative implementation; adopting a national water strategy and plan of action to realize this right; ensuring that water is affordable for everyone; <u>and facilitating improved and sustainable access to water</u> , particularly in rural and deprived urban areas.
--	---