

## **Senegal**

### **Summary**

Whistleblowers in Senegal have great difficulty in bringing to light evidence of waste, fraud, abuse, and illegality without exposing themselves to great personal danger. Although Senegal has ratified the UN Convention against Corruption, which includes whistleblower protection as a pillar, the country has not yet passed any specific laws to shield whistleblowers from retaliation. Provisions on reporting crime and corruption are inadequate, and the practice of whistleblowing is not defined in law or regulation.

The Transparency Code Relating to the Management of Public Finances and a 2012 law that established a new anti-corruption agency are the laws that deal with reporting crime and misconduct. While the Transparency Code requires public employees to report violations, there are no legal mechanisms to protect them from retaliation in the workplace or from civil and criminal liability related to a whistleblowing revelation.

Senegal lacks a whistleblower law and there is also no governmental entity to receive and investigate disclosures and retaliation complaints. The national anti-corruption agency, the Office Nationale de la Lutte Contre la Fraude et la Corruption (OFNAC), accepts reports of fraud and corruption but does not offer legal advice, support, or any protection for whistleblowers whatsoever.

### **Legal and Policy Framework**

Few laws in Senegal relate to the disclosure of information and none offer protection to employees and private citizens who do so.

The 2012 law that established the OFNAC allows the agency to collect, analyze, and support investigations of corruption, fraud, and other misconduct committed by public or private persons. The agency can collect testimony, information, and documents regardless of whether they contain official secrets. The law, however, lacks procedures for aiding whistleblowers legally, financially or in terms of their personal safety. In theory, the agency operates independently of the government, although there is nothing to indicate that this is the case in practice.

The Transparency Code, also introduced in 2012, requires public officials to report violations of law to judicial authorities. Failing to do so is punishable, but there are no anti-retaliation protections or penalties for people and organizations that retaliate against a whistleblower.

### **Legal, Legislative, and Policy Gaps**

Senegal has committed itself publicly to enacting whistleblower protections, although the government has not yet introduced any legislation to do so. Furthermore, Senegalese law does not recognize employees or citizens who report crime or misconduct as whistleblowers.

Other than OFNAC, which is limited to dealing with reports of corruption and fraud, there are no governmental agencies that specialize in receiving or handling reports from employee or citizen whistleblowers. Government agencies and private companies are not required to have internal reporting channels. Even though some laws require employees to report

misconduct, there are no secure ways to do so. Effectively, Senegal lacks virtually any critical standards that are needed to protect and support government and company whistleblowers.

Global Integrity observed in 2012, the year of its last report on whistleblowing in Senegal, that the country is “very weak” in enforcing laws and regulations that would protect the whistleblower, despite the fact that it leads Africa in many other areas, including anti-corruption, transparency, and government oversight.

Private sector whistleblowers, the organization said, “are usually victims of negative consequences. They may lose their job and any hope of promotion, but may also become victims of various other forms of intimidation.”

### **Potential Legal Improvements**

Senegal requires a dedicated law and agency to protect whistleblowers from retaliation and to establish procedures to report wrongdoing.

As a first step, OFNAC should be strengthened and its authority broadened to allow people to report misconduct beyond corruption and fraud. Additionally, by establishing disclosure channels, whistleblower protections would be improved by raising awareness of whistleblowers’ needs, which would create the foundation for improved protections.

The government also should raise awareness of the role and value of whistleblowing in fighting crime, corruption and public safety dangers. This would build public and political support for stronger whistleblower rights and protections.

### **Whistleblower cases**

In May 2016 revenue authority inspector Ousmane Sonko reported that numerous National Assembly deputies were not paying taxes. He was suspended from his position by presidential decree following his disclosure. Sonko has since continued to disclose inside information on alleged misappropriation of public funds and fraud by public officials and their family members. He has filed a case for reinstatement with the Supreme Court and is awaiting a ruling.

### **Laws and Policies Governing Press and Speech**

Senegal ranks 50<sup>th</sup> out of 180 countries surveyed in Reporters Without Borders’ 2018 World Press Freedom Index, a jump of 15 positions in two years. The organization wrote: “The media are pluralistic and media freedom violations directly affecting journalists have been relatively infrequent in recent years.” According to the 2018 Freedom of the Press report by Freedom House, Senegal’s press ranks “free.”

The government of President Macky Sall has pledged to strengthen press freedoms in response to frequent abuses of constitutional rights under his predecessor, Abdoulaye Wade. While the use of criminal investigations to limit press freedom has declined markedly under Sall, there has been little legislative progress. According to Reporters Without Borders, the adoption of a law to decriminalize media offenses has been on hold for the past five years.

**Relevant legislation**

- Transparency Code Relating to the Management of Public Finances
- Law on the Establishment of the National Anti-Corruption Office (OFNAC)

**Organizations of Interest*****Office Nationale de la Lutte Contre la Fraude et la Corruption (OFNAC)***

The national anti-corruption agency accepts complaints and information concerning corruption and fraud. The agency provides a website, a mobile app, and a “numéro vert” (green line) to allow citizens and employees to file reports.

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***Africtivistes***

This association of bloggers and cyber-activists advocates for democratization, transparency and media freedom.

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***Forum Civil Sénégal***

The national chapter of Transparency International in Senegal advocates for stronger whistleblower protections and provides support to individual whistleblowers.

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**Additional information**

Global Integrity, *Senegal: Integrity Scorecard Report – Sub-Category: Whistle-blowing Measures, 2006*

**Keeping Score:****How Senegal’s Whistleblower Protection Laws Compare to International Standards**

The following standards for whistleblower laws are derived from guidelines developed by the OECD, Council of Europe, Government Accountability Project, Blueprint for Free Speech and Transparency International.

**Key**

1 = National law is recognized as consistent with international standards

2 = National law is partially recognized as consistent with international standards

3= No national law or national law is not recognized as consistent with international standards

	<b>Standard</b>	<b>Public Sector</b>	<b>Private Sector</b>
1.	A broad range of organisations and workplaces are covered	3	3
2.	A broad range of offenses may be reported as whistleblowing	2	2
3.	The definition of who may qualify as a whistleblower is broad	3	3
4.	A range of disclosure channels to report internally or to regulators is in place	3	3
5.	People who make disclosures to external organizations, the media or the public are protected	3	3
6.	The threshold for protection is a reasonable belief that the information disclosed is true	3	3
7.	There are opportunities and protections for anonymous disclosures	3	3
8.	Whistleblower confidentiality is protected unless expressly waived	3	3
9.	Organizations are required to establish internal disclosure procedures	3	3
10.	Whistleblowers are protected from a broad range of retaliatory acts	3	3
11.	Victimized whistleblowers have access to a full range of remedies and compensation	3	3
12.	Those who retaliate against a whistleblower are subject to sanctions	3	3

13.	A whistleblower oversight or regulatory agency has been designated	3	3
14.	Whistleblower laws are administered and reviewed transparently	3	3