

**Brussels, 14 July 2004**

**8772/04  
ADD 25**

---

**Interinstitutional File:  
2000/0238 (CNS)**

---

**LIMITE**

**ASILE 34**

**NOTE**

---

from : Presidency

---

No. prev.doc. : 8772/04 ASILE 34

No. Cion prop. : 10279/02 ASILE 33 + REV 1 (de, en, fr) - COM(2002) 326 final/2

---

Subject : Amended proposal for a Council Directive on minimum standards on procedures  
in Member States for granting and withdrawing refugee status  
- Minimum common list of safe countries of origin

---

Delegations will find attached a complement to the reply from the **French** delegation.

*Assessment template*

Name of Member State	<b>FRANCE</b>
Name of country for designation	<b>BENIN</b>

<b>QUESTIONS</b>	<b>YES/NO</b>	<b>BASIS FOR RESPONSE</b>	<b>Details of supporting information sources other than those at Annex B. Please indicate if these are publicly available</b>
1. Does the country have a democratic system in place?	YES	See previous assessment template	Diplomatic correspondence with restricted access
2. Is there a situation of internal or international armed conflict in the country?	NO	See previous assessment template	

3. Is there generally and consistently no persecution as defined in Article 9 of the Qualification Directive in the country?	YES	<b>See previous assessment template</b>	
4. Is there generally and consistently no torture or inhuman or degrading treatment or punishment in the country?	YES	<p><b>Replaces previous assessment template</b></p> <p>The Benin Parliament passed a law outlawing female genital mutilation in January 2003. The practice affects some 17% of the population. The law was translated into 8 local languages to ensure that the message reached everyone in the towns and villages.</p> <p>The Ministry for the Family, Social Protection and Solidarity, in conjunction with UNICEF and ONGs, has mounted publicity campaigns, via local radio stations in particular, to raise awareness among the populations concerned (in the northern part of the country). Progress has been made: women who previously carried out excisions are now campaigning against the practice. Legal proceedings have been initiated against some of the women involved, but to date no trials have been held.</p> <p>Despite the progress made, there is no prospect of short-term eradication of the practice among the most backward, least educated and poorest sections of the population.</p> <p>Trafficking in children stems from the traditional practice of "vidomegon" whereby a child was placed with a better-off family, generally in the towns, for the sake of a better life and education. The custom has been distorted into a veritable trade in children, who are sold and sent to work abroad ( in Nigeria, Gabon, Côte d'Ivoire) or to serve as unpaid labour in the towns of Benin.</p>	

		<p>The extent of the problem was recognised at the end of the 80s, but there is no specific legislation. The only laws concern the movement of children under 18.</p> <p>Recently 261 children were returned to Benin from Nigeria, where they had been working in the quarries around Abeokuta. An estimated 2500 children are thought to be involved in the foreign trafficking.</p> <p>Action to prevent and curb the traffic has been stepped up throughout the country since 1999. Local anti-child-trafficking committees have been set up in many locations, with village chiefs at their head. More than a thousand such committees exist. They take action to publicise the problem, put a stop to it and return children to their homes. In the country itself, it is estimated that around 500 000 children under the age of 14 are employed in craft industries, chiefly in the big urban centres (1 in 6 children ).</p> <p>The regional bodies (ECOWAS/ ECCAS) are aware of the problem, which is being given close attention by Benin and Nigeria, a major destination for children caught up in the traffic.</p>	
<p>5. Where there is a situation of internal or international armed conflict in the country is there generally and consistently no threat by reason of indiscriminate violence in the country?</p>		<p><i>N/A</i></p>	
<p>6. Is the extent to which protection is provided against persecution or mistreatment by means of (a) – (d) below sufficient to show that there is generally and consistently no persecution or mistreatment in the country?</p>			

(a)	the relevant laws and regulations of the country and the manner in which they are applied	YES	<p><i>See previous assessment template and below</i></p> <p>Corruption is rife throughout Benin society, particularly in the (poorly paid) administration. There is an Office of Public Integrity and an office which monitors major works, both of which report directly to the Office of the President of the Republic, for the purpose of combating corruption. They distinguish themselves by spectacular operations, the results of which do not live up to the media hype surrounding them. Recently judges and Treasury civil servants were found guilty in an affair involving legal costs, and an administrative commission set up to investigate the management of the National Police Force's finances uncovered serious misappropriation of funds.</p> <p>The will to halt the flow of corruption poisoning Benin's society and administration does therefore exist, but the breadth and the depth of the phenomenon mean that it will be a very long haul.</p>	
-----	---	-----	---	--

(b)	observance of the rights and freedoms laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and/or the International Covenant for Civil and Political Rights and/or the Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention	YES	<i>See previous assessment template</i>	
(c)	respect of the non-refoulement principle according to the Geneva Convention	YES	<i>See previous assessment template</i>	
(d)	provision for a system of effective remedies against violations of these rights and freedoms		<i>Corruption is widespread in the judicial system.</i>	

<b>OVERALL ASSESSMENT</b>		
1. Do you consider that the information sources listed at Annex B are sufficient for the purpose of conducting the in-depth assessment referred to by the JHA Council with regard to this country?	<b>YES/NO</b>	<b>Insert basis for response</b>
	YES	
2. If you answered no to Q 1 please specify: in which areas you consider the information sources to be insufficient; and any other sources of information available to you which would assist discussions and which you are in a position to share with other Member States (Provide website address or other details).		
3. Is the country suitable for inclusion on the minimum common list?	<b>YES/NO</b>	<b>Insert basis for response</b>
	YES	

Assessment template

Name of Member State	<b>FRANCE</b>
Name of country for designation	<b>SENEGAL</b>

<b>QUESTIONS</b>	<b>YES/NO</b>	<b>BASIS FOR RESPONSE</b>	<b>Details of supporting information sources other than those at Annex B. Please indicate if these are publicly available</b>
1. Does the country have a democratic system in place?	YES	<i>See previous assessment template</i>	Diplomatic correspondence with restricted access
2. Is there a situation of internal or international armed conflict in the country?	YES	See below	



<p>3. Is there generally and consistently no persecution as defined in Article 9 of the Qualification Directive in the country?</p>	<p>YES</p>	<p>See previous assessment template and below</p> <p>France is alone among Senegal's donors in taking action in the field of security.</p> <p>Its support in recent years has been designed to encourage the policy of modernisation of the Senegalese police, which is faced with a drop in numbers, a lack of equipment and a lack of continuing training. In addition to action to increase public security (e.g. community policing of the difficult areas of Dakar) and improve crime investigation, training courses have been held for over 1000 police officers or gendarmes since the beginning of 2002. The emphasis was on police ethics.</p> <p>France is also to lend its support to the ongoing reorganisation of the Directorate for State Security.</p>	
<p>4. Is there generally and consistently no torture or inhuman or degrading treatment or punishment in the country?</p>	<p>YES</p>	<p>See previous assessment template and below</p> <p>Female genital mutilation is believed to affect 20% of women in Senegal, with the following differences between:</p> <p>- régions: 60 to 70% in the south and southeast of the country; practically 100% in the north</p>	

	<p>and northeast; practically 0% in the centre and west (very approximate figures);</p> <p>- ethnic groups: the main groups practising mutilation are the Mandingues, the Toucouleurs, the Soninkes, the Peuls, some of the Diolas (those from Fogny), the Balantes and the Bainouks.</p> <p>To counter these practices, Senegal adopted a law making excision a criminal offence on 13 January 1999.</p> <p>The Ministry for the Family has adopted a national action plan with a view to bringing a complete end to the practices of genital mutilation by 2015. President Wade himself, on his visit to Kaolack on 18 June, denounced the practice as archaic traditions that should be totally eliminated.</p> <p>Several NGOs are actively combating FGM:</p> <p>COSEPRAT (Senegalese Committee on Traditional Practices affecting the health of mothers and children), set up in 1984;</p> <p>Tostan, an international NGO which has been combating excision since 1997;</p> <p>FAWE (Forum for African Women Educationalists);</p> <p>Religious dignitaries, in particular imams, also</p>	
--	---	--

		<p>use their influence to refute the argument that excision is justified by the Koran.</p> <p>The aim is to inform the population about the penalties that could be incurred and the harmful consequences of these practices, to inform women of their right to health, to create alternative jobs for the men and women practising excision and also to combat other traditional practices such as force-feeding and child marriages.</p> <p>The work of these associations in the villages has positive effects: according to Tostan, 28% of the communities practising excision have stopped doing so, i.e. 1367 villages have abandoned the practice. The emphasis is on co-ordinated abandonment of the practice within a village or group of villages, so that parents can marry their daughters unmutilated. A few weeks ago FAWE nevertheless had a setback in Marsassoum, in the south of the country, where people declared themselves unanimously in favour of excision.</p>	
--	--	---	--

<p>5. Where there is a situation of internal or international armed conflict in the country is there generally and consistently no threat by reason of indiscriminate violence in the country?</p>	<p>YES</p>	<p>There has been a definite lull in the conflict in the Casamance region, which dates back more than 20 years, with the number of deaths having fallen from 80 in 2002 to only 20 in 2003 and with very few incidents having been reported in recent months. That said, the authorities are keeping a very close eye on anything that might trouble their handling of the conflict, with the press under particularly close scrutiny. This is illustrated by the expulsion of the Radio France Internationale (RFI) correspondent, and journalists are occasionally summoned to report to the criminal investigations directorate. Nonetheless, the increase in the number of press articles on the conflict in 2003 is evidence of a rather more relaxed attitude. It is difficult to gauge clearly the level of persecution on political grounds in the Casamance region (Amnesty International has reported the arrest of alleged members of the Movement of Democratic Forces of Casamance, or MFDC) because of the presence in Ziguinchor of the separatist movement's civilian leaders, some of whom oppose the current process, and the aid given by the authorities to the <i>maquisards</i> to dissuade them from looting. Recent developments in the process have resulted in a relaxation of military checks in the region and greater freedom of movement for the rebels.</p>	
--	------------	--	--

6. Is the extent to which protection is provided against persecution or mistreatment by means of (a) – (d) below sufficient to show that there is generally and consistently no persecution or mistreatment in the country?				
(a)	the relevant laws and regulations of the country and the manner in which they are applied	YES	<i>See previous assessment template</i>	
(b)	observance of the rights and freedoms laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and/or the International Covenant for Civil and Political Rights and/or the Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention	YES	See previous assessment template	
(c)	respect of the non-refoulement principle according to the Geneva Convention	YES		
(d)	provision for a system of effective remedies against violations of these rights and freedoms	YES	<i>See previous assessment template</i>	

<b>OVERALL ASSESSMENT</b>		
1. Do you consider that the information sources listed at Annex B are sufficient for the purpose of conducting the in-depth assessment referred to by the JHA Council with regard to this country?	<b>YES/NO</b>	<b>Insert basis for response</b>
	YES	
2. If you answered no to Q 1 please specify: in which areas you consider the information sources to be insufficient; and any other sources of information available to you which would assist discussions and which you are in a position to share with other Member States (Provide website address or other details).		
3. Is the country suitable for inclusion on the minimum common list?	<b>YES/NO</b>	<b>Insert basis for response</b>
	YES	

*Assessment template*

Name of Member State	<b>FRANCE</b>
Name of country for designation	<b>MALI</b>

<b>QUESTIONS</b>	<b>YES/NO</b>	<b>BASIS FOR RESPONSE</b>	<b>Details of supporting information sources other than those at Annex B. Please indicate if these are publicly available</b>
1. Does the country have a democratic system in place?	YES	<i>See previous assessment template</i>	Diplomatic correspondence with restricted access
2. Is there a situation of internal or international armed conflict in the country?	NO		

3. Is there generally and consistently no persecution as defined in Article 9 of the Qualification Directive in the country?	YES	<i>See previous assessment template</i>	
4. Is there generally and consistently no torture or inhuman or degrading treatment or punishment in the country?		<p><i>Although the death penalty has not been abolished, it has not been applied since 1980. Death penalties continue to be pronounced (14 in 2001) but are not implemented.</i></p> <p><i>Under Articles 166 and 177 of Mali's Penal Code, deliberate injury and ill-treatment are criminal offences. It is those articles, not any specific law, that provide the basis for prosecuting perpetrators of genital mutilation. The Bamako authorities' determination to eradicate these practice is not in doubt. The furthest they have gone in putting their commitment into practice is the national action plan against excision, adopted in 1998. With the vast majority of the population still convinced of the benefits of excision, the authorities fear that a law penalising FGM would force the practice underground and stop the message getting through to the people.</i></p> <p><i>The Malian Association for the Monitoring and Guidance of Traditional Practices, the main association taking action against genital mutilation, stresses the disastrous medical consequences of excision.</i></p> <p><i>In France, the Refugee Appeals Commission recognises that the central authorities cannot, however, provide protection throughout the</i></p>	



		<p><i>country, particularly in view of the considerable powers devolved to local authorities.</i></p> <p><i>Parents who have failed to prevail on the authorities to stop pressure being put on them to subject their daughters to excision have obtained refugee status in France.</i></p> <p><i>In addition, serfdom continues to exist as between ethnic groups (between Tuaregs and Bellahs in particular) and, despite the commitment of the authorities, trafficking in children, particularly with Côte d'Ivoire, has not been eradicated.</i></p> <p><i>Trafficking in children is punishable by prison terms of between 5 and 20 years. Programmes to return children to their families are being implemented.</i></p> <p><i>Designating a country as a safe country of origin does not mean that its nationals cannot be recognised as refugees if fears are justified in specific cases.</i></p>	
<p>5. Where there is a situation of internal or international armed conflict in the country is there generally and consistently no threat by reason of indiscriminate violence in the country?</p>	<p>N/A</p>		

6. Is the extent to which protection is provided against persecution or mistreatment by means of (a) – (d) below sufficient to show that there is generally and consistently no persecution or mistreatment in the country?				
(a)	the relevant laws and regulations of the country and the manner in which they are applied	NO	<i>The moratorium on the death penalty is a de facto, not a de jure, moratorium.</i>	
(b)	observance of the rights and freedoms laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and/or the International Covenant for Civil and Political Rights and/or the Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention	NO	<i>Death penalty</i>	
(c)	respect of the non-refoulement principle according to the Geneva Convention	YES		
(d)	provision for a system of effective remedies against violations of these rights and freedoms	YES		

<b>OVERALL ASSESSMENT</b>		
1. Do you consider that the information sources listed at Annex B are sufficient for the purpose of conducting the in-depth assessment referred to by the JHA Council with regard to this country?	<b>YES/NO</b>	<b>Insert basis for response</b>
	YES	
2. If you answered no to Q 1 please specify: in which areas you consider the information sources to be insufficient; and any other sources of information available to you which would assist discussions and which you are in a position to share with other Member States (Provide website address or other details).		
3. Is the country suitable for inclusion on the minimum common list?	<b>YES/NO</b>	<b>Insert basis for response</b>
	YES	

---