

COVID-19 - State of emergency in Senegal

Impacts on digital rights





The ICT Users Association (ASUTIC) is a non-profit organization that protects digital rights, supports the digital economy and promotes digital ecology. ASUTIC also works to strengthen democracy through ICT.

ASUTIC strive by leveraging the opportunities of the internet and the digital eco-system, to foster everyone access to the knowledge and information that are key elements of sustainable development for the benefit of all through research, advocacy and awareness.

Funded by its members and partners, ASUTIC is independent from any government, any political group, any economic power, any religious group and any pressure group.



The African Declaration on Internet Rights and Freedoms is a pan-African initiative to promote standards and principles of transparency in the formulation of internet policies and the implementation of human rights on the continent.

The Declaration aims to elaborate on the principles that are necessary for the respect of human and peoples' rights on the Internet, and to cultivate an Internet environment that can best meet the needs and objectives of social and economic development of Africa.

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Summary

In March 2020, the Senegalese government declared a state of emergency as part of their efforts to combat Covid-19. In the absence of government transparency on the management of the state of emergency, parliamentary control by the National Assembly and the limits of judicial control, this exceptional regime, which was established to combat Covid-19, legitimately raises concerns about digital rights in Senegal.

This study aims to take stock of the excesses, slippages and errors of this system which places Senegal outside the common law. It will then analyze the data collected in order to establish a more holistic view that can inform the public about the reality of the state of emergency and make recommendations to ensure respect for digital rights. The methodology includes a review of the literature on Senegal's international digital rights commitments, data collection through online research and an online call to citizens for testimonials.

The results from this study will show that no action has been taken by the Government of Senegal to restrict users' digital rights. However, there have been limitations on the right to freedom of expression online, within reason, evidenced by the arrest of two people for incendiary speech on social media.

While there has been no direct negative impact on digital rights during the implementation of the state of emergency, save for the aforementioned limitation on the right to freedom of expression, there are concerns about the right to access information, respect for life and the protection of personal data.

There has been a lack of transparency by the government in the management of the state of emergency and on implemented digital surveillance tools for contact tracing. This situation calls for the need for a law giving rise to the right of access to information and a strengthening of the protection of personal data. Therefore, this study proposes recommendations to strengthen the protection of digital rights in Senegal.

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1. Introduction

As part of the fight against the spread of Covid-19, the Senegalese government declared a state of emergency throughout the territory and a compulsory curfew from 8 p.m. to 6 a.m. on the 24 March 2020.

The state of emergency allows what the rule of law forbids: limitations on the free exercise of freedoms and the weakening of judicial guarantees of their protection by the diminution of civil liberties and the increase in the powers of the administrative authority.

The state of emergency created on the basis of a 51-year-old law at a time when the internet did not exist could lead one to believe that it would not contain provisions that could jeopardize online human rights. However, the implementation of Articles 6, 10 and 12 of this Law poses serious risks of harmful invasive consequences on digital rights in Senegal, in particular, the right to privacy and the protection of personal data, the right to information, freedom of expression, and the right to assembly and association.

International and national law recognizes that the government may impose certain limits on the rights of individuals when the country is faced with a threat of exceptional gravity. However, measures taken under the state of emergency must meet strict conditions: they must always be limited to the strict imperatives of the emergency situation and they must not call into question fundamental human rights and freedoms, both online and offline.

Since the emergence of Covid-19 in Senegal, in addition to alarmist information from other countries on the number of deaths linked to this disease, the Government has undoubtedly been confronted with an exceptional and unprecedented situation that could justify the declaration of a state of emergency for a limited time. But in the absence of government transparency on the management of the state of emergency, parliamentary control by the National Assembly and the limits of judicial control, this exceptional regime legitimately raises concerns about online and offline human rights in Senegal.

Therefore, civil society must not, by its silence, encourage the State, in its logic on implementing the state of emergency, to have total opacity over its effects on the lives of Senegalese citizens.

In response to this citizen's demand, the Association of ICT Users (ASUTIC) has set up a citizen observatory of the state of emergency, whose objective is to research and take stock of the consequences of the measures of the state of emergency on the digital life of Senegalese. This report reviews the facts and their impact on digital rights, develops a holistic view and finally makes recommendations to ensure respect for digital rights.

2. Geographical and political framework

Senegal is a West African country enveloping The Gambia and surrounded to the north, east and south by Mauritania, Mali, Guinea and Guinea-Bissau respectively. Its western border is on the edge of the Atlantic Ocean and the country covers an area of 196,712 square kilometres. Senegal has a population of nearly 16 million (as per a 2018 World Bank census), roughly

equally divided between men and women. It has fourteen regions, including Dakar, Diourbel, Fatick, Kaffrine, Kaolack, Kédougou, Kolda, Louga, Matam, St. Louis, Sedhiou, Tambacounda, Thiès and Ziguinchor. The majority of the population (53% according to a 2017 World Bank report) lives in rural areas.

Senegal is a republic with a pluralistic political system (several political parties) and a presidential regime. Senegal is the only French-speaking African republic that has never experienced a coup and where the transition of power between political parties has taken place peacefully and democratically.

The President of the Republic, elected by universal suffrage, is the head of state and the prime minister, the head of government. They both form the executive branch of the Government. Parliament includes the National Assembly (House of Representatives) and the Senate. Parliament and the Government share legislative power, while the judiciary remains independent.

The highest levels of the judiciary are the Court of Cassation and the Constitutional Court (the equivalent of the Supreme Court), whose members are appointed by the President of the Republic. Although they are intended to be independent, the balance of power is not enough to prevent them from being under the influence of the executive branch.

3. Framework of the digital economy¹

Senegal, which has adhered to the United Nations Sustainable Development Goals, including Target 9.c which calls for "significantly increasing access to information and communication technologies and striving to provide universal and affordable access to the internet in the least developed countries by 2020," has made an important step forward in digitizing people's lives. To this extent, the number of internet users relative to its population, from a rate of 8% in 2010 (about 1 million users), has risen to 46% in 2017 (about 7 million users), according to statistics published by the IUT and the World Bank. Despite this great leap forward, the government of Senegal continues to take important decisions, since 2016, to democratize broadband access and to end digital deserts.

Fixed telephony penetration fell from 2.19% in March 2016 to 1.97% in September 2018. On the other hand, mobile telephony is at 107.52%; internet penetration is at 68.49%; and linear fibre optic accumulation increased from 4,500 km in 2015 to 10,9724km in 2017. Internationally, internet bandwidth increased from 12.7 Gbps in July 2012 to more than 150 Gbps in June 2018, thanks to satellite links and the SAT3, Atlantis 2 and ACE underwater cables. Various mobile network operators have managed to cover 64% of Senegal's land area with telecommunications infrastructure with a coverage rate of 82% and 92% of the population. Consequently, the ICT Development Index (IDI) has placed Senegal in 142nd place with an index of 2.66 in 2017 compared to 2.48 in 2016.

¹ [Ministry of Communication, Telecommunications, Postal and Digital Economy Sector Development Policy Letter](#)

The digital ecosystem also consists of four telecommunications operators including a universal service operator, three Internet Access Providers (ISPs), three Virtual Mobile Network Operators (or MVNOs), private companies primarily small and medium-sized enterprises (SMEs) and Startups. They operate in the development of applications, engineering and consulting in general, professional ICT organizations and consumer associations.

4. Digital Rights Framework

Law No. 2016-29 of 08 November 2016, which overhauls the Criminal Code 2016-30, was adapted to the criminal justice system which is based on the modernization of the criminal offences of conventional criminal law and the development of traditional procedural instruments in relation to information and communication technologies. Information and communication technology offences are, therefore, punishable by imprisonment and a fine.

Real risks and threats to human rights exist, however, due to the extensive investigative powers, sometimes allowing for the use of intrusive tools, afforded to the Investigating Judge and the Judicial Police Officer acting on the authorization of the Prosecutor in terms of articles 90-10, 90-13 and 90-14 of Law No. 2016-30, which includes the Code of Criminal Procedure, and article 10 of Law No. 2016-33 of 14 December 2016 relating to the intelligence services. However, these provisions are at odds with article 6 of Law No. 2008-10 of 25 January 2008, which guarantees "the fundamental rights of individuals and the rights of property".

Freedom of expression online and the right to access information are also threatened by articles 180 and 181 of Law 2017-27 relating to the Press Code, and article 27 of Law 28-2018 relating to the Code of Electronic Communications. These articles give the authorities and telecom operators prerogatives to censor content on the internet.

Lastly, the protection of personal data is very low despite the existence of a law on the protection of personal data, a protection authority and Senegal's accession to Convention 108 of the Council of Europe which protects individuals against abuses which may accompany the collection and processing of personal data and which seeks to regulate the transfrontier flow of personal data.

5. Context

As part of the fight against the spread of Covid-19, the government of Senegal declared a state of emergency throughout the territory by Decree No. 2020-830 of 23 March 2020 under Law No. 1969/29 of 29 April 1969 relating to the state of emergency and the state of siege, and a curfew from 8 p.m. to 6 a.m. on the 24th of March 2020.² This came as a direct result of the increase in confirmed Covid-19 cases - from 1 case on the 2nd of March 2020 to 79 cases by the 23rd of March 2020.

² [Decree to establish a state of emergency in Senegal](#)

The state of emergency allows what the rule of law forbids: limitations on the free exercise of freedoms and the weakening of the protection of judicial guarantees by the diminution of civil liberties and the increase in the powers of the administrative authority.

Since the passage of Law 08/2020 empowering the President of the Republic to extend the state of emergency within three months of its commencement, Senegal has settled into a regime derogatory to civil liberties.

The state of emergency created on the basis of Law 69-29, a law enacted at a time when the internet did not exist, could lead one to believe that it would not contain provisions that could challenge human rights online. However, the drafting of certain sections of the Law has left it too broad and open to interpretation, and vague definitions of certain terms mean that the implementation of articles 6, 10 and 12 present the serious risk of harmful and invasive consequences on digital rights in Senegal, in addition to the laws passed since 2016.

The administrative authority's implementation of an exceptional legal framework could jeopardize four of the thirteen principles of the African Declaration of Internet Rights and Freedoms, namely: the right to privacy and the protection of personal data, the right to information, freedom of expression, and the right to assembly and association.

The situation becomes even more dire when you consider that judicial review is limited because it only intervenes in hindsight. Even the emergency referral is of limited effectiveness because of the speed of the administrative procedures involved resulting in the judge's decisions coming well after violations of rights and freedoms.

Thus, the state of emergency is a time where abuses of human rights, both online and offline, can become rife. This fear is confirmed by the fact that the day after the state of emergency was announced, video testimonies of abuse at the hands of the police were posted on social media by citizens.

Further, it should be noted that the government maintains complete opacity on the impact of the state of emergency on the Senegalese society. Indeed, no numerical assessment of the state of emergency is published by either the police or the gendarmerie. To date, there is no official channel in Senegal for the regular dissemination of updated indicators on the effects of the state of emergency accessible to the public.

Lastly, parliamentary control, an element of the legitimacy of this period of exception, was never mentioned by MEPs, much less the establishment by the National Assembly of Senegal of a commission to monitor and evaluate measures under the state of emergency.

In view of all these elements, this exceptional regime legitimately raises concerns about human rights, both online and offline, in Senegal.

Therefore, civil society must not, by its silence, encourage the State, in implementing the state of emergency, to maintain total opacity over its effects on the lives of Senegalese and give it the latitude to use the current period as a laboratory of experimentation for the generalization

of measures that are largely infringing on rights and freedoms, or even allow the surreptitious perpetuation of the state of emergency.

Vigilance must, therefore, be required because in a rule of law the implementation of an exceptional regime infringing on freedoms requires democratic control. However, this democratic control must be based on a rigorous analysis of the facts relating to the implementation of the state of emergency.

As a result, ASUTIC has carried out research to measure the extent of the impact of state of emergency measures on digital rights.

The aim is, first, to take stock of the excesses, slippages and errors of this system which places Senegal outside the common law, and then to carry out an analysis of the data in order to have a holistic view that can inform the public about the reality of the state of emergency and make recommendations to guarantee respect for fundamental freedoms and rights online and offline. In addition, the Citizens' Observatory will ensure that the Government of Senegal respects its international commitments to online human rights.

6. Methodology

The period of data collection and literature review has been from the beginning of the state of emergency, i.e. 24 March 2020, until the end of its second extension on the 2nd of June 2020. The actual work of data collection and literature review was carried out from 08 to 20 June 2020.

Due to the nature of the Covid-19 pandemic, an increase in the number of infected persons, and the obligation to respect social distancing protocols, the data collection and literature review was only carried out on the internet by a team of four people.

The review of Senegal's literature on international commitments on digital rights was carried out by visiting the official website of the Government of the Republic of Senegal,³ the Economic Community of West African States (ECOWAS),⁴ the African Union and the Office of the United Nations High Commissioner for Human Rights,⁵ with the focus on the Portal of the Universal Periodic Review (UPR).⁶

The collection of administrative decisions on the application of the state was made on the official website of the Government, the Ministry of the Interior, the Ministry of Road Transport, the Ministry of Tourism, the Ministry of Foreign Affairs and the Ministry of Health.

Data collection on the consequences of measures to enforce the state of emergency was carried out by conducting an online search of Senegal's main news sites. We first chose the official

³ [Official website of the Government of the Republic of Senegal](#)

⁴ [Economic Community of West African States \(ECOWAS\)](#)

⁵ [African Union](#)

⁶ [Universal Periodic Review \(UPR\)](#)

news websites, namely the Senegalese news agency (APS)⁷ and the national daily "Le Soleil",⁸ and then five of the most visited private press news portals. The five most visited private news portals were determined by a ranking on Amazon.com.⁹

Finally, we appealed to Senegalese citizens for testimonies and input through social media sites such as Twitter.com and Facebook.com.

7. Results

The implementation of the state of emergency could jeopardize four of the thirteen principles of the African Declaration of Internet Rights and Freedoms, namely: the right to privacy and the protection of personal data, the right to information, freedom of expression, and the right to assembly and association. Our research on administrative measures to enforce the state of emergency and their effects has focused on those that could have an impact on these digital rights.

7.1 Administrative measures

Since the declaration of a state of emergency on 24 March 2020, three types of administrative measures have been taken:

1. Prohibition of long-distance traffic;¹⁰
2. Traffic ban in all districts from 8 p.m. to 6 a.m.; and
3. Prohibition of demonstrations and gatherings in all open or closed places¹¹

We have not seen or collected any administrative measures that go in the direction of directly restricting digital rights in Senegal as part of the implementation of the state of emergency.

An extensive application of articles 6, 10 and 12 of the State of Emergency Act, which would have negative consequences on digital rights, was not found.

7.2 Consequences of administrative measures

From the various sources that were used to collect the data, a work of selection, cross-checking of information and analysis was carried out. In this report, we have focused on summarizing the most objective measures.

However, it is important to clarify that:

1. In the absence of investigative powers, ASUTIC was unable to verify all the facts collected; and

⁷ [Website of the Senegalese News Agency \(APS\)](#)

⁸ [Website of the national daily "The Sun"](#)

⁹ [Alexa's ranking of Senegal's top sites](#)

¹⁰ [Order temporarily prohibiting travel](#)

¹¹ [Stops temporary ban on protesting or gathering](#)

2. As the aim of this study was not to analyse the appropriateness of the administrative measures for health purposes, comprehensive assessments were not made on the effectiveness of measures relating to the state of emergency in combating Covid-19.

In view of the above, the findings relate to the implementation of administrative measures of the state of emergency that could impact digital rights.

7.3 Right to Information and Freedom of Expression

Paragraph 2 of article 10 of the 1969 Act, in addition to censoring the press, allows the administrative authority to block any website without delay. This administrative blocking procedure is reinforced by the requisitions, for the purpose of withdrawing or making inaccessible obviously illegal content, including that hosted abroad, addressed to the publisher in order to stop an online disturbance by the investigating judge or the judicial police officer on the authorization of the prosecutor, as provided by article 90-14 of Law No. 2016-30 of 8 November 2016. In addition, judicial blocking of manifestly illegal content is permitted if it is necessary to prevent access to clearly illegal content. The investigating judge or the judicial police officer, on the authorization of the prosecutor, notifies the internet service provider or the provider of electronic communication services that he must block any website without delay, according to article 90-13 of Law No. 2016-30.

Thus, the state of emergency is the reinforcement of the already considerable limits and restrictions in the common law on freedom of expression online and the right to information.

Despite this legal arsenal, which restricts the right of access to information and freedom of expression on the internet, no violations of these rights have been found in the implementation of the state of emergency.

However, it should be noted that two people, after giving their opinions on decisions concerning the management of Covid-19, were arrested for incendiary speech on social networks. According to the information published by the press, the former was arrested for insulting the head of state, direct provocation to a crowd not followed by effect, direct provocation and disobedience of the law, and contempt of the custodians of the security forces. The latter was arrested for the offences of public insults through ICT, offending the head of state, calling for an uprising and insulting agents in the performance of their duties, according to information published by the press.

These arrests, which are not related to the implementation of the state of emergency taken by the administrative authorities, raises questions about Senegal's respect for international law and its international commitments on freedom of expression.

7.4 The right to privacy and the protection of personal data

None of the implemented state of emergency measures were likely to be a threat to the right to online privacy and the protection of personal data. Thus, cases of violation of this right have not

been found either in the results of the research in the online press or in the testimonies of the citizens.

The lack of Senegalese knowledge about their right to online privacy, the protection of personal data and the Senegalese government's lack of transparency on technical devices for identifying and tracking infected persons would explain the findings above. No information has been provided on the device for identifying contacts of infected persons. This opacity violates the right to information while jeopardizing the right to privacy and the protection of personal data.

However, there is no shortage of legal basis for using users' personal data in the fight against Covid-19, particularly in Law No. 2016-33 of 14 December 2016 relating to The Intelligence Services, Law No. 2016-30 with the Code of Criminal Procedure and Law No. 2018-28 of 12 December 2018, bearing the Code of Electronic Communications.

7.5 Right to meeting and association

Article 6, paragraph 2, of Law 1969/29 of 29 April 1969 on the state of emergency clearly grants administrative authorities the power to restrict, limit, and disenfranchise all types of public or private meetings or associations, including those held online. This encompasses all mass gatherings including political meetings, trade union meetings, religious and social meetings.

The legal framework of the state of emergency thus gives the administrative authorities an expanded scope of intervention in order to restrict freedom of assembly because of the volumes intended by the concept of the meeting and, partly, because of the importance and scope of the restrictions.

From our analysis of the data collected from different sources, it is not apparent that there is a violation of the right to use the internet and digital technologies in the context of freedom of assembly and association, including through platforms and social networks.

8. International commitment to digital rights

Digital rights are, relatively, new rights so they are not adequately supported sub-regionally, regionally and internationally.

However, the UN Human Rights Council Resolution 20/8 dated 5 July 2012, on the promotion, protection and exercise of human rights on the Internet, states that *"the rights enjoyed offline must also be protected online"*.¹² Based on this resolution, Senegal's international commitments on the following offline rights that people must enjoy online will be assessed - the right to freedom of expression, right to information, right to assemble, and the right to association and protest.

The evaluation of Senegal's international digital rights commitments will be based on monitoring compliance with international conventions ratified by Senegal on offline rights through the

¹² [United Nations Human Rights Council Resolution 20/8](#)

Universal Periodic Review (UPR). The UPR is a unique process of reviewing the achievements of all UN member states in the field of human rights. It is a process led by states, under the auspices of the Human Rights Council. It provides each state with the opportunity to present the measures it has taken to improve the human rights situation on its territory and fulfil its human rights obligations. A central mechanism of the Human Rights Council, the UPR is designed to ensure equal treatment for each country.

Senegal is periodically examined and the most recent examination was conducted in 2018 during the third round of the UPR.¹³ At this UPR, the evaluation of Senegal's implementation of the recommendations received at the 2nd UPR in October 2013 was made. During the second round of the UPR, the government of Senegal received three points on freedom of opinion and expression, one on the right to peaceful assembly and one on freedom of association. Of the five recommendations received, two were accepted and the three on freedom of expression, access to information were noted.

The evaluation of the legal and regulatory framework promulgated since then shows that the Government of Senegal has not taken any concrete steps to implement these recommendations. Worse still, there have been gaps in the implementation of these rights and freedoms.

8. 1 Freedom of Expression and the Right of Access to Information

Article 19 of the International Covenant on Civil and Political Rights of 16 December 1966, which Senegal signed on 6 July 1970 and ratified on 13 February 1978, guarantees the right to freedom of expression and opinion.¹⁴

Articles 8 and 10 of Senegal's Constitution, 2001, guarantee freedom of expression. Article 10 explicitly states that: *"Everyone has the right to freely express and disseminate his opinions through speech or image or peaceful march, provided that the exercise of these rights does not infringe on the honour and respect of others, nor threaten public order."*

However, various laws restrict freedom of expression, including articles 248 and 254 of the 1965 Penal Code, which prohibit "offending" the head of state. They provide that any person who, through public broadcasting (radio, television, cinema, press, display, or exhibition) or any other means such as writing, images, songs or *"any technical process to reach the public, offends the president, commits an offence punishable by a fine of 100,000 to 1,500,000 francs or imprisonment for six months to two years, or both"*.

Law 14/2017 on the Press Code governing print, audiovisual and online media also restricts freedom of expression. Article 192 of the Code provides that, in "exceptional circumstances", authorities, including at the local level, may seize material, suspend or stop the broadcasting, or temporarily close a press house *"in order to prevent or stop an attack on state security,*

¹³ [Senegal cycles EPU](#)

¹⁴ [International Covenant on Civil and Political Rights](#)

territorial integrity, or in the event of incitement to hatred or a call to murder". Without judicial review, this provision gives way to abuses of press freedom and freedom of expression.

In addition, article 28 of the Electronic Communications Bill gives the Telecommunications and Postal Regulatory Authority (ARTP) broad powers over the sector. According to section 28 of the Bill, *"the regulator may authorize or impose any traffic management measures it deems useful to maintain economic balance and competition in the electronic communications sector and ensure the fair treatment of similar services"*. While this provision is likely to involve fair competition, the powers granted to the regulator (without judicial review) could potentially undermine freedom of expression and the right of access to information because the authority would have the power to compel service providers to block or impose restrictions on online content for economic reasons.

Many journalists, politicians and artists have faced charges under the provisions of the Press and Criminal Codes in the past, which has fostered a culture of self-censorship.

Article 10 of the Senegalese Constitution states that *"everyone has the right to freely express and disseminate their opinions by word, in writing and by image"*. However, the Press Code adopted in June 2017 contains several provisions that infringe on freedom of information and promote censorship and self-censorship.

Article 5 of the Press Code provides that journalists and the media have "free access" to information, except where such information is a "defence secret", concerns "secret investigations" and rules on access to undisclosed sites or structures. Without defining what constitutes a "defence secret," this provision can be used by the authorities to censor content or limit citizens' access to information.

What is of greater concern to freedom of information and censorship is the power to seize material, suspend broadcasting or close a media organization without the prior authorization of a judge under section 192. In addition, press offences with severe penalties remain in force, which has fostered a culture of self-censorship among journalists.

Moreover, the disclosure of military information is a violation of article 64 of the Penal Code, punishable by one to five years' imprisonment. To date, Senegal does not have an Access to Information Act, despite numerous calls for legislation to promote transparency and accountability.

8. 2 Right to meeting and association

Article 21 and article 22 of the International Covenant on Civil and Political Rights, which Senegal signed on 6 July 1970 and ratified on 13 February 1978, guarantee the right to peaceful assembly and the right to associate freely. In addition, articles 8 and 10 of the 2001 Constitution of the Republic of Senegal also guarantee the right to freedom of assembly.

Freedom of assembly is also protected by article 9 of the Constitution, which states that "any infringement of freedoms *and wilful interference in the exercise of freedom are punishable by law.*"

During Senegal's review of the second round of the UPR, the government received two recommendations on the right to freedom of peaceful assembly and association. It pledged to "protect the right to freedom of assembly and expression" and to "*respect the rights to freedom of expression, association and assembly in accordance with its national and international framework and to ensure that its security forces maintain public order without the use of excessive force.*"

Despite this commitment by the Government of Senegal, no concrete steps have been taken to implement these recommendations, and banning demonstrations on the grounds of "*risk of disturbances to public order*" remains a common practice by the administration. Indeed, in practice, the reason for "preserving public order" is often invoked by the administration to prohibit peaceful gatherings.

It was in light of the Senegalese government's failure to comply with its commitments on freedom of expression, opinion, the right of access to information, the right to assembly and association, that on 5 November 2018, at the 31st session of the UPR of the United Nations Human Rights Council, Senegal received six recommendations on these rights. Of these, five were accepted and one was noted. However, since that November 2018 session, several people have been arrested for spreading "fake news" and "insulting the head of state".

These arrests are indicators, which once again reveal that the Government of Senegal will not take the necessary measures to implement the recommendations.

9. Conclusion

The results of this research show that in the context of the implementation of the state of emergency, there have been no administrative measures which would have the effect of violating the digital rights that could be impacted: freedom of expression, the right to access information, the right to associate, respect for privacy and the right to the protection of personal data. As a result, repeated violations of digital rights have not been found from data collected from the various sources explored.

However, during the relevant search period from 24 March to 02 June, two people were arrested for making incendiary speeches on a network. They were charged with spreading "false news" and "offending the head of state." An attack on freedom of expression and opinion.

These arrests show that the Government of Senegal is not on the way to implement the recommendations of the United States government, given at the 31st session of the GET of Senegal in relation to the criminalization of incendiary speech: "*eliminate undue restrictions on fundamental freedoms, including bans on peaceful demonstrations and the criminalization of*

incendiary speech. The United States also remains concerned about the current practice of limiting freedom of expression and peaceful assembly."

Finally, the study noted the lack of transparency of the government of Senegal in the management of the state of emergency and the Covid-19 pandemic.

No information has been provided to citizens, either on the effects of administrative measures to implement the state of emergency or on the digital surveillance tools implemented in the context of the fight against Covid-19.

3. Recommendations

In light of the findings of this report, ASUTIC urges the Government of Senegal to:

- Establish a structure to give rise to international standards, all provisions of the Press Code, the Penal Code, the Penal Procedure Code and the Telecommunications Code that call into question freedom of expression, opinion, the right to access information, assembly and association;
- Develop a policy to ensure that laws on Internet rights and freedoms comply with international standards guaranteeing freedom of expression and the right to access information;
- Pass a law on the right to access information;
- Be transparent about all digital population surveillance measures implemented to combat the spread of Covid-19 and on the effects of state of emergency enforcement measures;
- Use digital surveillance technologies to respect human rights, in particular, the right to privacy and the protection of personal data;
- Strengthen the protection of personal data by updating the 2008 law and ensuring the independence of the Personal Data Protection Commission, and, lastly;
- Avoid permanently tainting the common law with draft laws to ratify ordinances arising from the derogatory and temporary regime of exceptional circumstances.