



## Common core document forming part of the reports of States parties

### Niger\*

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\* The present document is being issued without formal editing.



## Introduction

1. The Niger is a party to almost all international and regional instruments for the promotion and protection of human rights, the implementation of which is a day-to-day concern of the Government. The Constitution of the Seventh Republic, promulgated by Decree No. 2010-754/PCSRD of 25 November 2010 and published in special edition No. 19 of the Official Gazette on 29 November 2010, proclaims in its preamble the commitment of the people of the Niger to human rights and their resolve to build a State governed by the rule of law that guarantees, on the one hand, the exercise of collective and individual rights, freedom, justice, dignity, equality, security and well-being, as fundamental values of society, and, on the other, the democratic transfer of power and good governance. This commitment has been expressed in particular through the ratification of various international legal instruments on human rights, to which the Constitution gives greater force than internal laws. By ratifying these instruments, the State has undertaken to implement the rights enshrined therein and to report to the treaty bodies, in initial and periodic reports, on the legislative, administrative, judicial and other measures it has taken to this end. The common core document, which provides an overview of the country, constitutes the first part of all these reports. The data contained in the last common core document submitted by the Niger are no longer current, as the most recent date back to 2014. Accordingly, a new document is hereby submitted, with information covering the period up to 2021.

2. The present document was prepared, under the auspices of the interministerial committee responsible for drafting the reports of the Niger to the treaty bodies and the universal periodic review mechanism, through an inclusive, participatory process that included contributions from various sectors of the public administration, civil society organizations active in promoting and protecting human rights, international organizations, the National Human Rights Commission and others.

3. It has been drawn up in accordance with the guidelines set out in document HRI/GEN/2/Rev.6 of 3 June 2009, issued pursuant to General Assembly resolutions 52/118 and 53/138. The present document provides an overview of the physical, demographic, economic, security and sociocultural situation of the Niger. It describes the political and legal structure and the general framework for the protection and promotion of human rights. Lastly, it traces the progress made in implementing the substantive provisions on human rights that are common to all the instruments.

## I. General information about the reporting State

### A. Geographic characteristics

4. Located in the eastern part of West Africa, in the Sahelo-Saharan zone, the Niger is a landlocked country with a surface area of 1,267,000 km<sup>2</sup>. It is bordered by Algeria and Libya to the north, Nigeria and Benin to the south, Chad to the east and Mali and Burkina Faso to the west.

5. The Niger is subdivided into eight regions: Agadez, Dosso, Maradi, Tahoua, Tillabéri, Zinder, Diffa and Niamey. Owing to its geographical location, the Niger is a hub for trade between North Africa and sub-Saharan Africa. It lies between 11°37' and 23°33' north latitude and 16° east and 0.1° west longitude. It is the largest country in West Africa and the sixth largest in Africa as a whole, after Algeria, the Democratic Republic of the Congo, the Sudan, Libya and Chad.

6. Its hydrographic network consists of the Niger River, the Komadugu Yobe and Goulbi de Maradi waterways, Lake Chad, Lake Madarounfa, Lake Guidimouni and many permanent and semi-permanent water bodies. However, the silting-up and declining flow rate of the Niger River are among the country's major challenges. Surface water resources are relatively abundant and are distributed over two major areas: the Niger River basin and the Lake Chad basin.

7. The Niger River basin comprises five hydrologic units:
  - The Niger River, of which 550 km are within the country, and its right-bank tributaries (Gorouol, Dargol, Sirba, Goroubi, Diamangou, Tapoa, Mékrou)
  - The left-bank tributaries (fossil valleys or *dallols*)
  - The Ader Doutchi Maggia zone
  - The Goulbis (N'Maradi and N'Kaba) and the upper Tarka valley
  - The *koris* (ephemeral streams) of the Aïr Massif
8. The Lake Chad basin comprises two units: the Komadougou Yobe sub-basin and the Lake Chad sub-basin. Surface water represents an average annual volume of 30 billion m<sup>3</sup>, of which only 1 per cent is currently used, mainly for agricultural purposes.
9. Groundwater is estimated to consist of 2.5 billion m<sup>3</sup> of renewable flow, of which only 20 per cent is used, essentially for drinking water, and 2,000 billion m<sup>3</sup> of fossil water, very little of which is affected by mining activities.
10. The Niger, a developing country, also faces the challenges of desertification and the deterioration of environmental resources as a result of human activity and climate change. Industrial waste is discharged into rivers, the soil and the air, polluting the environment. This occurs most commonly around the cities of Arlit, Akokan, Agadez and Niamey.
11. The Niger includes a southern zone with a Sudanese-type climate. To the north of the line formed by the towns of Filingué, Tahoua and Tanout, it gives way to the Sahara, then to the Aïr Massif and the surrounding plains, which are part of the Sahara. The country's topography is quite varied. The Niger River valley is dotted with islands, bordered by basins and framed by sandstone cliffs. The southern regions have a tabular relief, forming low lateritic plateaus alternating with depressions such as the Dallol Bosso and Dallol Maouri, which are dried-up tributaries of the Niger River. The Damergou and Ader plateaus are covered by a lateritic crust, sinking to the west beneath the sandstones of the middle Niger.
12. The Azawak is a vast, sandy plain criss-crossed by wide, shallow valleys, while the Aïr is a series of rocky massifs interspersed with narrow, more fertile valleys. The eastern part of the country is a sandy region: it encompasses the great erg of Ténéré, formed by sharp dunes interrupted by the clay depressions of Kawar and Agram.
13. Located in the Sudano-Sahelian climate zone, the country has two clearly differentiated seasons, dry and wet; precipitation becomes scarcer towards the north. Some 80 per cent of the territory of the Niger is in the Sahara and the Sahel. Only a strip in the south of the country is green. Access to water is a problem for some areas, although numerous efforts are being made to remedy the situation.
14. The desert is expanding by about 200,000 hectares per year. Government reforestation programmes are hampered by frequent droughts and growing demand for timber and farmland. Since 1990, the forest has lost a third of its surface area and now covers just 1 per cent of the country. Only 8 per cent of the territory receives more than 400 mm of rain per year, which allows for adequate agriculture.

## **B. Demographic, economic, social and cultural characteristics**

### **1. Demographic, social and cultural characteristics**

15. According to the latest projections from the National Institute of Statistics, the population of the Niger is estimated at 23,591,983 as of 2021. More than half a century of action has yet to curb its population growth, which has even accelerated in recent years, despite the implementation of the Government's population policy statement. The table below shows the changes in the country's population from 2016 to 2021, according to projections by the National Institute of Statistics.

Table 1  
**Population of the Niger, 2016–2021**

	2016	2017	2018	2019	2020	2021
Population of the Niger	19 679 500	20 407 944	21 161 750	21 942 944	22 752 385	23 591 983

*Source:* National Institute of Statistics, population projections for the period 2012–2024.

16. According to the results of the general population and housing census, the population rose from 11,060,291 in June 2001 to 17,138,707 in December 2012, with women accounting for 50.6 per cent of the total. This represents an intercensal population growth rate of 3.9 per cent per year. The Niger is thus experiencing very rapid population growth, driven by high fertility, which in turn results from a high rate of early marriage (76.3 per cent of girls between the ages of 20 and 24 married before the age of 18, and 28 per cent before the age of 15), a low rate of contraceptive use (12.2 per cent) and relatively low school enrolment among girls. For example, in 2018, the gross school enrolment ratio was 72.1 per cent for girls, compared with 77.7 per cent for boys. Several factors explain the low school enrolment ratio for girls. In particular, girls may drop out of school because of household vulnerability, responsibility for housework, the remoteness or lack of school infrastructure or an insufficient number of host families.

Table 2  
**Total fertility rate**

	2006	2012	2017	2021
Number of children per woman of childbearing age	7.1	7.6	6	6.2

*Source:* National survey on fertility and under-5 mortality, 2021.

17. The growth rate is high enough to double the population of the Niger every 18 years. Thus, the population will exceed 34 million by 2030 and 68 million by 2050. This has resulted in an extremely young population, of which 68.88 per cent consists of persons under the age of 25. There is accordingly an enormous need for public expenditure in core sectors such as health, education and infrastructure.

18. As the rate of economic growth has fluctuated in recent years, living conditions have become increasingly precarious. The immediate implications of this situation are:

- Little opportunity to capture the demographic dividend
- High social demand for education, health care, water and sanitation
- Heavy pressure on natural resources, including water and land for crops and grazing
- Risks of environmental degradation linked to the overexploitation of natural resources
- Heightening of conflicts over the control and exploitation of natural resources (agriculture/livestock, etc.)
- The risk of worsening food and nutrition crises and risks arising from uncontrolled migration

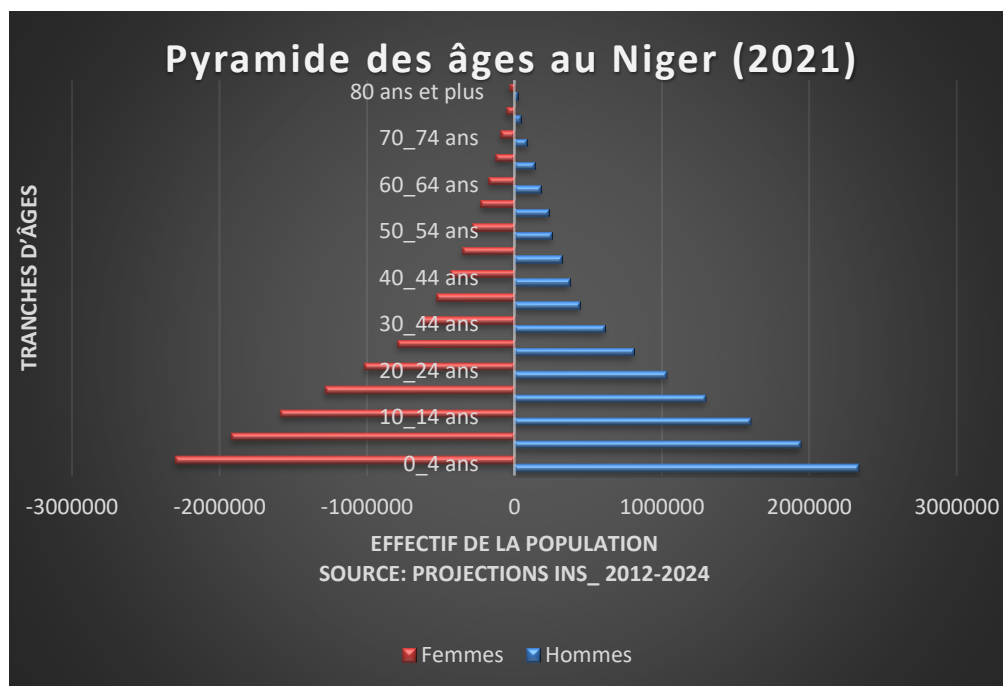
19. The country's rapid population growth has resulted in an extremely young population, as shown by the age pyramid below. From the standpoint of population economics, the breakdown of this population by major age groups shows that the non-working-age population outnumbers the working-age population.

20. In 2020, the under-15 population and the 60-and-over population will account for 49.7 per cent and 4.1 per cent of the total, respectively, while the working-age population (ages 15 to 60) will account for just 46.2 per cent. This leads to a very high dependency ratio of 116 non-working-age persons for every 100 working-age persons.

21. This situation is thus not conducive to economic and social development. In countries with emerging or developed economies, the dependency ratio is on the order of 50 to 60 non-working-age persons for every 100 working-age persons. Reducing the dependency ratio by improving the age structure of the population is a prerequisite for the country's economic development.

22. Islam is the religion practised by over 90 per cent of the country's inhabitants, who live in harmony with those who practise minority religions. As a result, the Niger has no religious or ethnic conflicts. The institution of joking relationships, inter-ethnic or interreligious marriages, the many festivals and celebrations and the traditional wrestling championship are the foundation of unity and cohesion among the people of the Niger.

**Figure**



23. The 11 different ethnic groups that make up the population of the Niger and that share a desire to live together in peace and solidarity are:

- Arabs
- Buduma
- Fulani
- Gurma
- Hausa
- Igdalane
- Isawghan
- Kanuri
- Tuareg
- Djerma
- Toubou

24. The official language of the Niger is French. Under Act No. 2019-80 of 31 December 2019 on the promotion and development of national languages in the Niger, there are

11 national languages. Under article 5 of the Constitution, they have equal status as national languages. These are:

- Arabic
- Buduma
- Fulfulde
- Gulmancema
- Hausa
- Kanuri
- Djerma
- Tagdal
- Tuareg
- Tasawaq
- Toubou

## 2. Economic characteristics

25. The economy of the Niger continues to be dominated by the primary sector, which accounted for 44.68 per cent of gross domestic product (GDP) in 2015 and employs the vast majority of the rural population. However, this sector remains highly sensitive to climate shocks and variability. Heavy dependence on rain-fed agriculture leaves the country prone to recurring food crises.

26. From 2011 to 2019, with the implementation of the Renaissance Programme, the economy recorded an average annual growth rate of around 6 per cent. By 2019, nominal GDP had doubled from its 2010 level of 2,832.3 billion CFA francs (CFAF). This process of building the country's wealth reflects the resilience of its economy to risks linked to security challenges, low prices for the main export mineral (uranium) and the impact of climate change on agricultural productivity.

27. The 2019 growth rate of 6.3 per cent is due mainly to continued investment in infrastructure, extractive industries and services, as well as structural reforms, in particular to improve the business climate and develop agriculture. According to the 2019 edition of the World Bank report *Doing Business*, which measures the business climate, the Niger ranked in 143rd place. In 2020 its ranking jumped by 11 places, reaching 132nd in the world and twenty-second in Africa. This result is the outcome of the significant progress made in areas such as access to electricity and credit, tax collection, cross-border trade and investor protection. Within the West African Economic and Monetary Union (WAEMU) and the Economic Community of West African States (ECOWAS), the Niger ranks fourth and sixth, respectively.

28. The primary sector remains the main driver of the economy, but the contribution of the secondary sector has increased. Over the period 2011–2019, the primary sector contributed an average of 2.3 percentage points to economic growth. This sector's performance was based largely on agriculture (averaging 6.4 per cent over the period), which benefited from the positive effects of the implementation of the 3N Initiative, investments by the Millennium Challenge Corporation and favourable rainfall patterns.

29. The shares accounted for by the primary and tertiary sectors remained relatively stable over the period 2011–2019, averaging 38.1 per cent and 37 per cent respectively. The secondary sector grew by an average of 8 per cent, and its contribution to growth fluctuated by an average of 1.36 percentage points over the period. Inflation averaged 2 per cent over the period 2011–2019. This means that annual inflation remained below the WAEMU target of 3 per cent.

30. Despite all its efforts and achievements, the Niger remains one of the world's poorest countries. The poverty headcount ratio fell from 48.2 per cent in 2011 to 40.3 per cent in 2019, a relative drop of almost 8 points. Analysis based on previous surveys shows that the

decline in poverty was much more pronounced in rural areas, falling from 54.6 per cent in 2011 to 45.6 per cent in 2019. The poverty gap index also fell significantly, from 13.1 per cent in 2011 to 10.8 per cent in 2019. The same was true of the poverty severity index, which decreased from 4.9 per cent in 2011 to 4.1 per cent in 2019.

31. With regard to living standards, as analysed in both monetary and non-monetary terms, the share accounted for by households classified as poor has shrunk, from 31 per cent in 2011 to 23.4 per cent in 2014, and then to 18.8 per cent in 2019. The shares consisting of middle-class and affluent households were 26.1 per cent in 2011 and 4.1 per cent in 2014, respectively, rising to 29.6 per cent and 4.9 per cent in 2019.

Table 3

**Economic growth in recent years**

	2016	2017	2018	2019	2020
GDP growth rate	5.7	5.0	7.2	5.9	3.6

*Source:* Comptes Économiques de la Nation Rapides, 2020 edition (May 2021).

### C. Security situation

32. For a number of years, the countries of the Sahel have faced growing insecurity. This region has seen appalling violence perpetrated by armed groups, who kill and kidnap civilians, burn down schools, loot homes and steal livestock. It should be recalled that since 2015, when the Boko Haram group first carried out attacks in its territory, the Niger, alongside the other countries of the subregion, has been committed to combating all forms of terrorism. This has led to the creation of the Joint Force of the Group of Five for the Sahel and to the deployment of French forces under Operation Barkhane; of United States special forces, which have three military bases in the country; and of other forces from allied countries.

33. Despite the measures taken by the Government, including the allocation of over 17 per cent of the national budget to the defence sector and the declaration of states of emergency in the areas concerned, the security situation remains problematic in the regions of Diffa, Tahoua and Tillabéri, which are in the areas bordering Mali and Burkina Faso. Terrorist groups and armed gangs of all stripes continue to terrorize the population, with their daily toll of civilian and military deaths, refugees and internally displaced persons, resulting in a highly alarming humanitarian situation.

34. The Government is resolved, with the support of its partners, to combat this amorphous threat by strengthening the relevant resources, as announced by the President of the Republic during his inauguration on 2 April 2021: “In Diffa, Tillabéri and Tahoua, I will do what is necessary to put a prompt end to the suffering of people whose lives are blighted by kidnappings, ransom payments, tax payments to terrorist groups, extortion, stealing of livestock and systematic crimes. Our defence and security forces will enjoy my full support, as they enjoyed the support of President Mahamadou Issoufou, to ensure that they have all the resources they need for their courageous fight against terrorism. Based on the lessons learned from this battle we have waged for almost 10 years, I will focus in particular on making our actions more efficient by strategically distinguishing between the missions of the army and the internal security forces.”

35. To meet these goals announced by the Commander-in-Chief of the Armed Forces, the authorities will increase the budget of the Ministry of Defence from CFAF 112.259 billion in 2021 to CFAF 151 billion in 2022.

### D. Constitutional, political and legal structure of the State

36. A former French colony, the Niger gained independence on 3 August 1960. The country’s democratic process began in earnest in 1990 with the holding of the National Sovereign Conference. After the Conference, the Niger chose to adopt a full multiparty system. As at 15 November 2021 there were 171 legally recognized political parties. In the

period from the time of its independence to the present day, the Niger has had seven Republics, i.e. seven constitutions, the most recent being that of 25 November 2010. The democratization process has been interrupted four times by military coups, which occurred in 1974, 1996, 1999 and 2010.

37. The current constitutional, political and legal structure of the State is the one set out in the Constitution of 25 November 2010, which was adopted by referendum on 31 October 2010. This text provides for a republican form of government with a unitary, indivisible, democratic, secular and social character. Thus, the fundamental principles governing the State are government of the people, by the people and for the people, separation between the State and religion, social justice and national solidarity.

38. The country's semi-presidential political system is based on the separation of powers among the three branches of government, namely the executive, legislative and judicial branches. For the first time since its independence, the Niger experienced a peaceful transfer of power in April 2021, marking the succession between two democratically elected Presidents of the Republic.

## **1. Executive branch**

39. The executive branch is headed by the President of the Republic, who is the Head of State, embodies national unity and is above political parties. The President is responsible for ensuring independence, national unity, territorial integrity, respect for the Constitution and international treaties and agreements, the smooth functioning of public authorities and the continuity of the State. The President is elected by an absolute majority of voters, in elections based on universal, free, direct and equal suffrage and held by secret ballot, for a term of five years, and may be re-elected only once.

40. Under no circumstances may a person serve more than two presidential terms or extend a term of office for any reason whatsoever. Citizens of either sex who are nationals of the Niger by birth and are at least 35 years of age by the deadline for the submission of candidatures, and who are in possession of their civil and political rights, are eligible to stand for election to the Presidency.

41. The Government is headed by a Prime Minister, who is the Head of Government and is appointed by the President. When there is divided government, i.e. when the presidential and parliamentary majorities are drawn from opposing parties, the Prime Minister is appointed by the President from a list of three candidates proposed by the majority in the National Assembly. In such cases, the Minister of Defence and the Minister for Foreign Affairs are appointed by mutual agreement between the President and the Prime Minister. The President ends the Prime Minister's term of office upon the latter's submission of the resignation of the Government.

42. The Prime Minister is responsible for national policy and submits proposals to the Head of State for the appointment of ministers. The Government is accountable to the parliament, which oversees its actions and can dismiss it by rejecting its general policy statement or adopting a motion of censure or a vote of no confidence. The President of the Republic may dissolve the National Assembly after consultation with the President of the National Assembly and the Prime Minister.

## **2. Legislative branch**

43. The parliament of the Niger comprises a single chamber known as the National Assembly. It is made up of 171 deputies chosen in elections based on universal, direct and equal suffrage and held by secret ballot, for a term of five years. Under the Constitution, the National Assembly is vested with the fundamental missions of passing laws, levying taxes and overseeing the actions of the Government. Laws adopted by the National Assembly are promulgated by the President of the Republic, who has discretion to send the text back for a second reading.

44. Each deputy acts as a representative of the nation and any imperative mandate is null and void. The members of the National Assembly enjoy parliamentary immunity. No deputy may be prosecuted, investigated, arrested, detained or tried for opinions expressed or votes



cast in the performance of his or her duties. When the parliament is in session, no deputy may be prosecuted or arrested, except in flagrante delicto, for a suspected criminal offence without the authorization of the National Assembly. When the parliament is not in session, no deputy may be arrested without the authorization of the Bureau of the National Assembly except in cases of discovery in flagrante delicto, authorized prosecutions or final convictions.

45. The National Assembly is headed by a President assisted by a Bureau. The composition of the Bureau and other parliamentary structures must reflect the political configuration of the National Assembly. The President is elected for the duration of the legislative term and the other members of the Bureau are elected each year, in accordance with the National Assembly's rules of procedure.

### **3. Judicial branch**

46. Judicial power is vested in the Constitutional Court, the Court of Cassation, the Council of State, the Court of Auditors and the other courts and tribunals. The judicial branch is independent of the other two branches of government, as stipulated in article 116 of the Constitution. It ensures compliance with the law and is the guardian of individual and collective freedoms.

47. Justice is administered throughout the country on behalf of the people and in strict compliance with the rule of law and the rights and freedoms of every citizen. Court decisions are binding on public authorities and citizens alike. They may be challenged only through the procedures and in the manner prescribed by law. In the performance of their duties, judges and prosecutors are independent and subject only to the authority of the law. Judges are appointed by the President of the Republic on the recommendation of the Minister of Justice, after consultation with the Supreme Council of Justice. They have security of tenure. Prosecutors are appointed by the President of the Republic on the recommendation of the Minister of Justice.

### **4. Voting system**

48. Elections are based on universal, direct, free and equal suffrage and are held by secret ballot. Under the Constitution, citizens of the Niger of both sexes are eligible to vote, in the conditions laid down by law, if they are at least 18 years of age by the date of the election or are emancipated minors and if they are in possession of their civil and political rights. Citizens of either sex who are nationals of the Niger by birth and are at least 35 years of age by the deadline for the submission of candidatures, and who are in possession of their civil and political rights, are eligible to stand for election to the Presidency. Citizens of either sex who are nationals of the Niger, are at least 21 years of age and are in possession of their civil and political rights are eligible to stand for election to the National Assembly.

49. With regard to local elections, under article 157 of the Electoral Code, members of regional, municipal and urban district councils are chosen in elections based on universal, direct, free and equal suffrage and held by secret ballot, using an open list system with proportional representation according to the highest average method. Article 158 provides that the number of candidates on each list must be equal to the number of seats allocated to the constituency.

50. Members of regional, municipal and urban district councils are elected for a term of five years, with effect from the date on which the final results are announced. They may be re-elected. If necessary, the term of office of council members may be extended by six months pursuant to a decree issued by the Council of Ministers.

51. In legislative or local elections, the gender composition of the candidate lists submitted by political parties, groupings of political parties or groupings of independent candidates must be such as to ensure that when the final results are announced, candidates of each sex account for at least 25 per cent of the total number elected.

### **5. Formation of associations**

52. In exercise of the freedom of association recognized and guaranteed by the Constitution, political parties, groupings of political parties, trade unions, non-governmental

organizations (NGOs) and other associations or groupings of associations may be formed and operated freely, in compliance with the laws and regulations in force. Under Ordinance No. 84-06 of 1 March 1984 on the regulations governing associations, as amended by Ordinance No. 84-50 of 5 December 1984 and Act No. 91-006 of 20 May 1991, all associations must be registered and authorized before commencing their activities.

## 6. Freedom of association

53. Under article 183 of the Labour Code, persons engaged in the same occupation, similar trades or related occupations involved in the production of specific goods, or the same liberal profession, may freely form a trade union. Any worker or employer may freely join a union of his or her choice relating to his or her occupation. The same applies to persons who have ceased to perform their functions or their occupation, provided that they have performed such functions for at least one year.

54. Article 184 states that the purpose of trade unions is to examine and defend economic, industrial, commercial and agricultural interests. Their activities are aimed at furthering and defending the material, moral and occupational interests of their members.

55. Article 186 strictly prohibits the use of pressure tactics by company managers or their representatives either in favour of or in opposition to any trade union. With regard to workers, employers are bound by the provisions of article 5, which stipulates that no employer may take a person's sex, trade union membership or non-membership or trade union activity into consideration in making decisions relating to recruitment, hiring, the conduct and distribution of work, occupational training, advancement, promotion, remuneration, social benefits, disciplinary measures or termination of the employment contract.

56. For the first time, the Niger organized workplace elections to determine which trade unions are the most representative. The voting took place on 31 July 2019. The final results of the 2019 workplace elections, as published by Order No. 0072/MET/PS/SG/DGT/DT/PDS of 19 September 2019, are as follows:

Table 4

### Final results of the workplace elections of 31 July 2019

1	Democratic Confederation of Workers of the Niger	14 073	32.31%
2	Labour Confederation of the Niger	13 077	30.03%
3	Union of Workers' Trade Unions of the Niger	5 343	12.27%
4	General Confederation of Free Trade Unions of the Niger	3 853	8.85%
5	Progressive Trade Union of Workers	2 912	6.69%
6	General Union of Workers of the Niger	1 126	2.58%
7	Democratic Union of Workers of the Niger	987	2.27%
8	General Confederation of Labour of the Niger	801	1.84%
9	National Union of Civil Service Support Staff Trade Unions of the Niger	527	1.21%
10	Trade Union Confederation of Workers of the Niger	298	0.68%
11	Union of Free Trade Unions of Support Staff of the Niger	279	0.64%
12	Union of Free Trade Unions of Workers of the Niger	276	0.63%

57. Employers' organizations have formed two trade union federations: the Federation of Employers' Organizations and the National Council of Employers of the Niger.

## II. General framework for the protection and promotion of human rights

58. The Constitution of the Seventh Republic, promulgated through Decree No. 2010-754/PCSRD of 25 November 2010, is the linchpin of the promotion and protection

of human rights in the Niger. It was adopted by referendum during the transition period following the military coup that ended the Sixth Republic. The preamble proclaims the people's attachment to the principles of pluralist democracy and human rights as defined in the Universal Declaration of Human Rights of 1948, the International Covenant on Civil and Political Rights of 1966, the International Covenant on Economic, Social and Cultural Rights of 1966 and the African Charter on Human and Peoples' Rights of 1981. It also proclaims the people's attachment to the regional and international legal instruments for the protection and promotion of human rights that the Niger has signed and ratified.

59. Furthermore, the Constitution establishes the country's absolute opposition to any political regime founded on dictatorship, arbitrariness, torture, racial discrimination, arbitrary detention, impunity, injustice, corruption, misappropriation of public funds, regionalism, ethnocentrism, nepotism, the personalization of power, personality cults, etc. The country's stated determination translates into, among other actions, the protection and promotion of the rights of vulnerable groups, namely children, women, persons with disabilities and older persons.

## **A. Acceptance of international human rights norms**

60. In the context of the protection and promotion of universal human rights values, the Niger is a party to almost all the regional and international legal instruments in this domain. It has not introduced any objections, declarations, derogations, restrictions, limitations or reservations with regard to the various instruments, apart from the Convention on the Elimination of All Forms of Discrimination against Women. In addition, it has accepted the individual communications procedures under some of the instruments, specifically the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of Persons with Disabilities, but has yet to make the declaration in relation to five others, namely the Convention on the Rights of the Child, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention for the Protection of All Persons from Enforced Disappearance.

### **1. Ratification of the main human rights instruments**

#### **(a) International level**

61. The Niger is a party to the following instruments:

- The Slavery Convention, to which the Niger succeeded on 25 August 1961
- The International Convention for the Suppression of the Traffic in Women of Full Age, to which the Niger succeeded on 25 August 1961
- The International Labour Organization (ILO) Right to Organise and Collective Bargaining Convention, 1949 (No. 98), ratified on 23 March 1962
- The ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), ratified on 23 March 1962
- The ILO Abolition of Forced Labour Convention, 1957 (No. 105), ratified on 23 March 1962
- The ILO Forced Labour Convention, 1930 (No. 29), ratified on 23 March 1962
- The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, ratified on 22 July 1963
- The four Geneva Conventions of 1949 on international humanitarian law, to which the Niger succeeded on 16 August 1964
- The 1967 Protocol relating to the Status of Refugees, to which the Niger acceded on 2 February 1970

- The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, to which the Niger acceded on 1 December 1964
- The Protocol amending the Slavery Convention, to which the Niger acceded on 7 December 1964
- The Convention on the Political Rights of Women, to which the Niger succeeded on 7 December 1964
- The ILO Equal Remuneration Convention, 1951 (No. 100), ratified in 1966
- The International Convention on the Elimination of All Forms of Racial Discrimination, ratified on 27 April 1967
- The Convention against Discrimination in Education, to which the Niger acceded on 16 July 1968
- The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, ratified on 10 June 1977
- The International Convention on the Suppression and Punishment of the Crime of Apartheid, adopted in November 1973 and ratified by the Niger on 28 June 1978
- The ILO Minimum Age Convention, 1973 (No. 138), ratified on 4 December 1978
- The Convention on the Reduction of Statelessness, to which the Niger acceded on 17 June 1985
- The International Covenant on Civil and Political Rights, to which the Niger acceded on 7 March 1986
- The Optional Protocol to the International Covenant on Civil and Political Rights on a communications procedure, adopted on 16 December 1966, to which the Niger acceded on 7 March 1986
- The International Covenant on Economic, Social and Cultural Rights, to which the Niger acceded on 7 March 1986
- The International Convention against Apartheid in Sports, ratified on 2 September 1986
- The Convention on the Rights of the Child, ratified on 30 September 1990
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which the Niger acceded on 5 October 1998
- The Convention on the Elimination of All Forms of Discrimination against Women, to which the Niger acceded on 8 October 1999
- The ILO Worst Forms of Child Labour Convention, 1999 (No. 182), ratified on 4 August 2000
- The amendment to article 43 (2) of the Convention on the Rights of the Child, adopted on 12 December 1995 and accepted by the Niger on 24 October 2001
- The amendment to article 20 (1) of the Convention on the Elimination of All Forms of Discrimination against Women, adopted on 22 December 1995 and accepted by the Niger on 1 May 2002
- The International Convention against the Taking of Hostages, ratified on 17 December 2003
- The United Nations Convention against Transnational Organized Crime, ratified on 30 September 2004
- The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women on a communications procedure, ratified on 30 September 2004

- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, ratified on 30 September 2004
- The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, ratified on 26 October 2004
- The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 18 December 2002, to which the Niger acceded on 14 November 2004
- The Convention on the Rights of Persons with Disabilities, ratified on 24 June 2008
- The Optional Protocol to the Convention on the Rights of Persons with Disabilities, ratified on 24 June 2008
- The United Nations Convention against Corruption of 2003, to which the Niger acceded on 11 August 2008
- The Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live, ratified on 27 January 2009
- The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, ratified on 18 March 2009
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, to which the Niger acceded on 18 March 2009
- The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, ratified on 13 March 2012
- The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights on a communications procedure, adopted on 10 December 2008, to which the Niger acceded on 7 November 2014
- The Convention relating to the Status of Stateless Persons of 1954, to which the Niger acceded on 7 November 2014
- The International Convention for the Protection of All Persons from Enforced Disappearance, to which the Niger acceded on 24 July 2015
- The ILO Protocol of 2014 to the Forced Labour Convention (1930), ratified on 14 May 2015
- The statute of the Organization of the Islamic Conference Women Development Organization, ratified on 21 April 2017
- The Protocol to Eliminate Illicit Trade in Tobacco Products, adopted on 12 November 2012 at the fifth session of the Conference of the Parties to the World Health Organization (WHO) Framework Convention on Tobacco Control, held in Seoul, Republic of Korea, from 12 to 17 November 2012, to which the Niger acceded on 3 May 2017
- Supplementary Protocol A/P/SP1/7/93 amending and complementing the provisions of article 7 of the Protocol relating to Free Movement of Persons, Residence and Establishment, adopted in Ouagadougou, Burkina Faso, on 30 June 1989, ratified on 24 May 2017
- The ILO Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), ratified by the Niger on 15 March 2018
- The amendments to the Rome Statute of the International Criminal Court relating to the crime of aggression, adopted in Kampala on 10 June 2010, ratified by the Niger on 12 April 2018
- The Convention on Protection of Children and Cooperation in respect of Inter-country Adoption, signed in The Hague on 29 May 1993, to which the Niger acceded on 24 May 2018

- The Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, ratified on 24 May 2018
  - The ILO Employment Policy Convention, 1964 (No. 122), ratified on 6 June 2018
  - The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, adopted in New York on 26 November 1968, to which the Niger acceded on 6 May 2019
  - The ILO Maternity Protection Convention, 2000 (No. 183), ratified on 10 June 2019
62. The Niger is not a yet a party to the following instruments, protocols and amendments for the promotion and protection of human rights:
- The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, adopted on 15 December 1989
  - The Optional Protocol to the Convention on the Rights of the Child on a communications procedure, adopted on 19 December 2011
  - The Convention on the Prevention and Punishment of the Crime of Genocide, adopted on 9 December 1948
  - The amendment to article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination, adopted on 15 January 1992
  - The amendments to articles 17 (7) and 18 (5) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 8 September 1992

**(b) Regional level**

63. At the African Union and subregional levels, the Niger has signed or ratified many instruments for the protection and promotion of human rights, including:
- The African Charter on Human and Peoples' Rights, ratified on 21 July 1986
  - The African Charter on the Rights and Welfare of the Child, ratified on 11 December 1999
  - The Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa, ratified on 21 September 1971
  - The OAU Convention for the Elimination of Mercenarism in Africa, ratified on 19 June 1980
  - The African Union Convention on Preventing and Combating Corruption, ratified on 3 March 2006
  - The African Charter on Democracy, Elections and Governance, ratified on 4 October 2011
  - The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), ratified on 10 May 2012
  - The ECOWAS Protocol relating to Free Movement of Persons, Residence and Establishment, adopted in May 1979, ratified on 29 November 1979
  - The ECOWAS Protocol on the Fight against Corruption, signed on 15 December 2006
  - The Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, adopted in Lomé, Togo, on 10 December 1999, ratified on 24 May 2017
  - The Bangui Agreement Instituting an African Intellectual Property Organization, Act of 14 December 2015, Bamako, Mali, ratified on 24 May 2017
  - The Agreement Establishing the African Continental Free Trade Area, adopted by the Heads of State and Government of the African Union in Kigali, Rwanda, on 21 March 2018, ratified on 16 May 2018

- The Multilateral Cooperation Agreement to Combat Child Trafficking in West Africa, signed in Abidjan, Côte d’Ivoire, on 27 July 2005
- The African Charter on Values and Principles of Public Service and Administration, adopted in Addis Ababa, Ethiopia, on 31 January 2011 at the fifteenth ordinary session of the Assembly of Heads of State and Government of the African Union, ratified on 13 May 2019
- Supplementary Protocol A/P/SP1/7/93 amending and complementing the provisions of article 7 of the Protocol relating to Free Movement of Persons, Residence and Establishment, adopted in Ouagadougou, Burkina Faso, on 30 June 1989, ratified on 24 May 2017
- The Solemn Declaration on Gender Equality in Africa, adopted by the Heads of State at the third ordinary session, held in Addis Ababa, Ethiopia, from 6 to 8 July 2004

64. To give effect to these various legal instruments and provide a better living environment for its people, in a context conducive to respect for human rights, the Niger has taken legislative, institutional, administrative and other measures to implement its international and regional commitments for the benefit of all citizens and foreigners living in the country.

65. The Niger is not yet a party to the following regional instruments: the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, adopted in Maputo, Mozambique, on 11 July 2003; the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Older Persons, adopted in Addis Ababa, Ethiopia, on 31 January 2016; and the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Persons with Disabilities in Africa, adopted in Addis Ababa, Ethiopia, on 29 January 2018.

## **2. Reservations and declarations**

66. In order to give full effect to international and regional instruments, the Niger has generally not entered reservations or declarations upon ratification or accession. It has, however, entered reservations to the Convention on the Elimination of All Forms of Discrimination against Women, specifically to articles 2 (d) and (f), 5 (a), 15 (4) and 16 (1) (c), (e) and (g). It should be noted that the Niger is heavily influenced by Islam and that sociocultural constraints persist. Considerable efforts and time are thus required to change the way people think. To that end, awareness-raising campaigns are conducted on a regular basis with the aim of changing entrenched sociocultural attitudes that are an obstacle to the withdrawal of these reservations.

67. The Niger also made a declaration with regard to article 3 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. In its declaration, the Government stated that the minimum age at which it permits voluntary recruitment into the Niger armed forces and national gendarmerie is 18 years, in accordance with Act No. 62-10 of 16 March 1962 on the organization of recruitment in the Republic of the Niger. It also indicated the safeguards it has put in place to ensure that recruitment is never forced or coerced.

68. In addition, the Niger specified in a declaration upon ratification of the ILO Minimum Age Convention, 1973 (No. 138) that the minimum age for admission to employment is 14 years and, in a declaration upon ratification of the ILO Maternity Protection Convention, 2000 (No. 183), that the duration of maternity leave is 14 weeks.

## **B. Legal framework for the protection of human rights at the national level**

### **1. Protection of rights referred to in the various instruments under national law**

69. In its preamble, the Constitution reaffirms the country’s commitment “to the principles of pluralist democracy and human rights as defined by the Universal Declaration of Human Rights of 1948, the International Covenant on Civil and Political Rights of 1966,

the International Covenant on Economic, Social and Cultural Rights of 1966 and the African Charter on Human and Peoples' Rights of 1981". Article 171 of the Constitution provides that "treaties or agreements lawfully ratified shall, upon their publication, have an authority superior to that of laws, provided, in each case, that the agreement or treaty is applied by the other party".

70. Most of the rights protected under international human rights instruments are enshrined in the Constitution. Civil and political rights, economic, social and cultural rights, the rights of specific groups, in particular women, children and persons with disabilities, and so-called third generation rights, such as the right to peace and the right to a healthy environment, are set forth in the preamble, which has constitutional rank, and title II, articles 10 to 35.

71. The procedures for exercising the various rights enshrined in the Constitution are established in laws passed by the National Assembly and in government decrees. The main texts are:

- The Criminal Code
- The Code of Criminal Procedure
- The Civil Code
- The Code of Civil Procedure
- The Labour Code
- The Electoral Code
- The Lease Code
- The Forestry Code
- The Customs Code
- The Rural Code
- The Water Code
- The Oil Code
- The Environment Code
- The Town Planning and Construction Code
- The Political Parties Charter
- The Act on the judicial system and the jurisdiction of courts
- The Access to Information Act
- The Act on the basic principles of the prison system
- The Act on the regulations applicable to prison administration staff
- The Act on the national independent mechanism for the oversight of detention facilities
- The ordinance governing associations
- The ordinance on freedom of the press
- The ordinance on combating trafficking in persons
- The Cybercrime Act
- The Act authorizing the private exercise of health-care professions
- The Reproductive Health Act
- The Pharmaceuticals Act
- The Act governing demonstrations on public thoroughfares
- The Act defining manifestly unlawful orders



- The Act on the organization, composition and responsibilities of the National Human Rights Commission
- The Act on the organization, working methods and procedures of the Constitutional Court
- The Act on the composition, organization, responsibilities and working methods of the Court of Cassation
- The Act on the composition, organization, responsibilities and working methods of the Council of State
- The Act on the working methods and procedures of the High Court of Justice
- The Act on the composition, organization, responsibilities and working methods of the High Council for Communications
- The Education Act
- The Human Trafficking and Migrant Smuggling Act
- The Act establishing the gender quota system for officials in elective office, the Government and the State administration
- The State of Emergency Act
- The Consumer Protection Act
- The Child Protection Act
- The Social Security Act
- The Act on the fundamental principles for the integration of persons with disabilities
- The Mining Act
- The Act amending the Nationality Code
- The Act on the status of refugees and asylum-seekers
- The Internally Displaced Persons Protection Act
- The Civil Status Act
- The Personal Data Protection Act
- The Electronic Communication Interception Act
- The Electronic Communication Regulation Act

72. These texts are but a fraction of the legal arsenal for the holistic promotion and protection of human rights.

## 2. Incorporation of instruments into the national legal system

73. Title X of the Constitution (arts. 168–171) deals with international treaties and agreements. Article 169 makes the ratification of some categories of treaties and agreements contingent on the approval of the parliament. These include defence and peace treaties, as well as treaties and agreements that relate to international organizations, have implications for the State budget or modify legal provisions. The law adopted by the parliament authorizes but does not constitute ratification.

74. When an international commitment has been negotiated and signed by the competent authority, it can be ratified by the President (art. 168) only after the parliament has approved ratification and the Constitutional Court, at the request of the President, the President of the National Assembly, the Prime Minister or one tenth of the deputies, has found the commitment to be in line with the Constitution. Once ratified, the text is published in the Official Gazette, thus marking its entry into force.

75. Under article 171 of the Constitution, “treaties or agreements lawfully ratified or approved shall, upon their publication, have an authority superior to that of laws, provided, in each case, that the agreement or treaty is applied by the other party”. Some human rights

treaties, including the Convention on the Rights of Persons with Disabilities, the Convention against Torture and the Convention on the Rights of the Child, require the adoption of specific legislation in order to be incorporated into national law. The Niger has been making considerable efforts in this area with a view to completing the harmonization of national legislation with international instruments.

### **3. Judicial, administrative and other authorities with competence affecting human rights matters**

#### **(a) Judicial system**

76. Pursuant to article 116 of the Constitution, the judicial branch is independent of the legislative and executive branches. Judicial power is exercised by the Constitutional Court, the Court of Cassation, the Council of State, the Court of Auditors and the various other courts. The other courts not cited in this article are the High Court of Justice, the appeals courts, the Military Court, the regional courts, the district courts, the administrative courts, the labour courts, the commercial courts, the juvenile courts, the rural landownership tribunals, the urban courts and the rural courts.

77. Considerable changes have been made in the judicial system to respond to security, administrative, social and economic challenges and to honour commitments flowing from the ratification of international conventions. For example, through Act No. 2018-37 of 1 June 2018 on the organization and jurisdiction of the courts, the system's coverage has been expanded, taking into consideration administrative divisions and the countrywide system of local government. The various judicial reforms undertaken in recent years include:

- Expanding the mandate of the counter-terrorism unit to include transnational organized crime through the adoption of Act No. 2017-07 of 31 March 2017
- Establishing an appeals court in the capital of each administrative region, bringing their number up from two to eight. Of these new courts, only the one in the Tahoua region is in operation, helping to relieve the workload of the existing courts in Niamey and Zinder. The other appeals courts will become operational gradually
- Establishing specialized courts to hear labour, commercial, administrative, juvenile and rural landownership cases at each of the country's 10 regional courts
- Adopting Act No. 2018-37 of 1 June 2018 on the establishment of urban district courts in the four localities with city status, meaning five urban district courts in Niamey, five in Zinder, three in Maradi and two in Tahoua. The urban district courts in the city of Niamey became operational in July 2019
- Establishing a district court in all 27 of the newly created departments, bringing the total number of these courts to 47. They will share jurisdiction with the rural landownership tribunals
- Establishing rural district courts in all rural localities to complete the judicial coverage of the country and bring justice closer to the people
- Adopting Decree No. 2019-195/PRN/MJ of 15 April 2019 on the implementation of Act No. 2018-36 of 24 May 2018 on the regulations governing the judiciary in order to strengthen the independence of the judiciary

78. The Government's efforts to support the judiciary have made it possible to significantly increase the country's rate of court coverage, from 59.70 per cent in 2018 to 64.18 per cent in 2019, an increase of 4.48 percentage points. Of the country's 71 regional and departmental capitals (8 regions and 63 departments), 43 have at least one court (district or regional court). With the construction of new courts, the rate of coverage of court infrastructure rose from 64.18 per cent in 2018 to 68.66 per cent in 2019. The rate of coverage of court infrastructure is defined as the number of localities with the status of department or regional capital where the regional or district court operates in premises that it owns or borrows. However, human resource indicators for the judiciary remain below international standards. For example, in 2019, the clerk-to-judge ratio and the officers-to-judge ratio were 0.93 and 0.57, respectively, or fewer than one clerk per judge, and fewer than two officers

per judge, below the standards in this area, which call for two clerks per judge, or three officers per judge.

79. Although additional judges are recruited every year, the number of judges per capita was 1 per 49,000 inhabitants in 2020, 1 per 53,004 inhabitants in 2019 and 1 per 54,072 inhabitants in 2018. These ratios remain far below the United Nations standard of 1 judge per 20,000 inhabitants. As the table below shows, the number of active judges is nonetheless improving, having risen from 399 in 2018 to 421 in 2019 and 449 in 2020.

Table 5  
**Ratios of judicial personnel against international standards**

<i>Indicators</i>	<i>International standards</i>	<i>Ratios in 2015</i>	<i>Ratios in 2016</i>	<i>Ratios in 2017</i>	<i>Ratios in 2018</i>	<i>Ratios in 2019</i>
Judges per capita	1/20 000 inhabitants	1/50 197	1/49 539	1/51 499	1/54 072	1/53 004
Clerk-to-judge	2 to 1	0.91 to 1	0.92 to 1	0.92 to 1	1.04 to 1	0.93 to 1
Officer-to-judge	1 to 1	0.59 to 1	0.53 to 1	0.53 to 1	0.51 to 1	0.57 to 1

*Source:* Ministry of Justice, 2019.

**(b) Judicial institutions and their jurisdiction**

80. There is a hierarchy of courts consisting of higher and lower courts. The higher courts hand down final decisions, whereas the decisions of the lower courts are, in principle, appealable.

*Constitutional Court*

81. The Constitutional Court is composed of seven members aged 40 years or older, including:

- Two persons with extensive professional experience in legal or administrative matters, including one nominated by the President of the Republic and one nominated by the Bureau of the National Assembly
- Two judges elected by their peers, including one first-grade judge and one second-grade judge
- One lawyer with at least 10 years' experience, elected by his or her peers
- One lecturer with a doctorate in public law, elected by his or her peers
- One representative of associations defending human rights and democracy who holds at least a postgraduate degree in public law, elected by the umbrella association

82. The Constitutional Court has jurisdiction over constitutional and electoral matters. It rules on the constitutionality of laws and ordinances and on the compatibility of international treaties and agreements with the Constitution. It interprets the provisions of the Constitution and oversees the proper conduct, transparency and fairness of referendums and presidential and parliamentary elections. It also adjudicates electoral disputes and announces definitive election results.

83. The Constitutional Court conducts the swearing-in of the President prior to his or her assumption of power and is responsible for declaring the President's incapacity to govern or the vacancy of the office of President. In the event that the President is brought up on charges before the High Court of Justice by a two-thirds majority of the National Assembly, the President of the Constitutional Court will serve as Head of State ad interim.

84. Decisions of the Constitutional Court cannot be appealed. They are binding on the Government and on all administrative, civilian, military and judicial authorities. The Constitutional Court cannot be dissolved. Its members cannot be removed from office and they enjoy immunity from criminal prosecution. They serve a single six-year term.

*High Court of Justice*

85. The High Court of Justice is an institution under the National Assembly, made up of four deputies elected by the National Assembly for a period of one year and three judges designated, respectively, by the Court of Cassation, the Council of State and the Court of Auditors. Prosecutorial functions are performed by the attorney general at the Court of Cassation and his or her deputy at the same Court.

86. The High Court of Justice is responsible for prosecuting acts of high treason committed by the President of the Republic and acts classified as felonies or misdemeanours committed by government officials in or during the performance of their duties. High treason is considered to have been committed when the President breaks his or her oath of office, refuses to obey an order of the Constitutional Court or is found guilty of committing or abetting serious or gross violations of human rights, fraudulently ceding part of the national territory, compromising national interests in matters of natural and subsoil resources management or introducing toxic waste into the national territory. Decisions of the High Court of Justice cannot be appealed, including on points of law.

*Court of Cassation*

87. The Court of Cassation is the highest court in the legal hierarchy. It is composed of the most senior of the highest-grade professional judges. It consists of four divisions: the civil and commercial division, the social and customary affairs division, the criminal division and the joint division. Each division consists of three judges, called counsellors, including the division president. Thus, the Court's operations are run by a president, three division presidents and at least nine counsellors, all appointed by presidential decree upon nomination by the Minister of Justice and upon receiving a favourable opinion from the Supreme Council of Justice. The prosecutorial function is performed by an attorney general, two deputy attorneys general and at least two advocates general, all appointed by the President upon nomination by the Minister of Justice.

88. One of the Court's main functions is to hear appeals on points of law, including lack of jurisdiction, violation of the law or custom, failure to rule on a claim and lack, insufficiency or opacity of reasoning, in relation to final decisions and judgments issued by the courts on any matter within its jurisdiction, apart from cases relating to harmonized business law, which come under the remit of the Common Court of Justice and Arbitration.

89. The Court is also competent to hear applications for compensation for wrongful pretrial detention and to prosecute judges and certain persons who enjoy some form of jurisdictional immunity.

*Council of State*

90. The Council of State is the highest administrative court and is composed of a president, two division presidents, a secretary-general, special State councillors, State councillors and examiners. The special State councillors are persons selected for their expertise in the various fields of national activity. The other State councillors are selected from among the most senior judges at the highest rank and individuals recognized for their legal or administrative skill who have at least 15 years' seniority in their prior position.

91. The Council of State has advisory and administrative, as well as litigation, functions. The Prime Minister can submit draft laws and ordinances to the Council for its opinion before their adoption by the Council of Ministers. The Council may also, on its own initiative, draw the authorities' attention to any legislative, regulatory or administrative reforms it deems to be in the public interest.

92. The Council of State can hear appeals on points of law against final decisions rendered by the administrative courts, final quasi-judicial decisions handed down by administrative and professional bodies, and final decisions on electoral matters (local elections or disputes concerning voter registration). The Council of State is also the first and last instance for applications to set aside an administrative decision on grounds of abuse of authority. Lastly, it is competent to rule on applications for interpretation and assessment of the legality of administrative decisions, at the request of the judicial authorities.

*Court of Auditors*

93. The Court of Auditors is the highest court responsible for the supervision of public finances. It has jurisdictional, supervisory and consultative competence. The bench is composed of a president (President of the Court of Auditors), 4 division presidents, at least 12 counsellors and at least 12 auditors. The prosecution consists of an attorney general, a chief advocate general and advocates general.

94. The Court of Auditors is composed of four divisions, each consisting of a division president, counsellors and auditors.

- The first division oversees the operations of the State.
- The second division oversees the operations of the local authorities.
- The third division oversees the financial and accounting management of industrial and commercial public corporations, State-owned and partially State-owned companies and State-subsidized organizations.
- The fourth division is responsible for budgetary and financial discipline and the oversight of the asset declarations and annual accounts of political parties.

95. The Court of Auditors is competent to rule on:

- The books kept by the main public accountants of the State, the local authorities and administrative public corporations
- The books kept by unauthorized accountants
- Mismanagement by authorizing officers, administrators and their deputies

96. The Court of Auditors is competent to oversee:

- The financial and accounting management of administrative officials responsible for the execution of the general budget, as well as the other budgets and special treasury accounts governed by the same rules
- The material flow accounts of public accountants
- The financial and accounting management of the corporations and organizations enumerated above

*Appeals courts*

97. The appeals courts are higher courts in that they hear appeals of first-instance decisions rendered by ordinary and specialized courts. The bench is composed of a president, a vice-president, division presidents and counsellors, while the prosecution consists of an attorney general, a chief deputy and a number of other deputies.

98. The appeals courts comprise 12 divisions:

- A civil division
- A commercial and financial division
- An administrative division
- A social affairs division
- A serious offences division
- A minor offences division
- An indictment division
- A juvenile division
- An economic and financial oversight division (Appeals Court of Niamey)
- An oversight division for terrorism and transnational organized crime cases (Appeals Court of Niamey only)

- A trial division for economic and financial matters
- A trial division for terrorism and transnational organized crime cases

99. Within their jurisdiction, the appeals courts rule on appeals of the first-instance judgments of regional, district, juvenile, commercial, administrative, criminal and labour courts. However, appeals of decisions handed down in customary matters by the judge responsible for customary affairs and the presidents of district courts, as well as decisions handed down by rural landownership tribunals, are referred to the competent regional court.

100. Although a commercial appeals court was established pursuant to Act No. 2020-061 of 25 November 2020, it has yet to begin operating.

#### *Regional courts*

101. Regional courts are ordinary lower courts with jurisdiction over all types of matters, except those for which jurisdiction has been expressly assigned to a specialized court. There are 10 regional courts in the Niger, including general ones in Tillabéri, Dosso, Tahoua, Konni, Agadez, Zinder, Diffa, Arlit and Maradi and the Special Regional Court of Niamey. The latter is so called due to the volume of cases it hears and the large number of judges assigned to it.

102. The general regional courts consist of a president, a vice-president, one or more investigating judges, a sentence enforcement judge, one or more juvenile court judges and a number of other judges. At regional courts with more than one investigating judge, one is appointed as chief. At general regional courts, the prosecution is made up of a State prosecutor and one or more deputies.

103. The Special Regional Court of Niamey has a president, one or more vice-presidents, division presidents, a chief investigating judge, investigating judges, juvenile court judges, sentence enforcement judges and a number of other judges. A specialized unit on terrorism and transnational organized crime and another on economic and financial offences, both with national jurisdiction, have been set up within the Special Regional Court of Niamey.

104. The prosecution consists of a State prosecutor, an assistant State prosecutor, one or more chief deputies and one or more deputies.

105. The regional courts are ordinary courts with jurisdiction over all types of matters except those for which jurisdiction has been assigned to other courts. In criminal matters, the regional courts adjudicate cases involving misdemeanours or infractions. Since the reform introduced by Act No. 2018-37 of 1 June 2018, which abolished the assize courts, the regional courts have also adjudicated cases involving felonies.

106. In civil matters, the regional courts hear all cases falling outside the jurisdiction of the district or specialized courts. Thus, the regional courts are competent to adjudicate all civil suits that are solely personal or securities-related when the amount at stake is over CFAF 5 million or, in commercial matters, over CFAF 3 million (Act No. 2020-061). Below these amounts, the district courts have jurisdiction.

107. The regional courts also rule on appeals against judgments of the district courts or local judges in customary or lease matters.

108. Finally, the regional courts are competent in matters concerning local elections, in keeping with article 166 of the Constitution, which establishes that “special chambers of the regional court may rule on the eligibility of candidates and oversee the proper conduct, transparency and fairness of local elections. They also announce the results. Appeals against decisions of the regional courts in election-related cases are lodged with the Council of State as the highest authority in such matters.”

#### *District courts*

109. A district court has been established in each departmental capital, except in the Departments of Konni and Arlit, where, due to the volume of cases, the courts have the rank of regional court. District courts are composed of a president, an investigating judge, a judge and a representative of the State prosecutor. When adjudicating customary matters, the president is assisted by two judges, each representing the custom of one of the parties. They

are selected from a list issued annually by decree of the Minister of Justice upon nomination by the Minister of the Interior.

110. The district courts have general jurisdiction over customary matters. With regard to persons governed by customary law, district courts can hear all cases, irrespective of the value of the claim, concerning the capacity to enter into a contract and to bring legal proceedings, civil status, family, marriage, divorce, descent, inheritance, gifts and wills.

111. In criminal matters, district courts have the same jurisdiction as the regional courts, except where the prosecution of felonies is concerned. In civil and commercial matters, they can hear all suits involving any party that are solely personal or securities-related and concern amounts of under CFAF 5 million.

112. District courts have jurisdiction over matters concerning property or ownership of buildings and the rights deriving therefrom, except when the dispute relates to registered land or land whose acquisition or transfer has been certified by a method established by law.

113. District courts also hear all disputes between lessors and lessees, regardless of the persons involved, when the annual amount of the verbal or written lease agreement does not exceed CFAF 5 million.

#### *Administrative courts*

114. The administrative courts were established by Act No. 2004-50 of 22 July 2004, repealed and replaced by Act No. 2018-37 of 1 June 2018, itself repealed and replaced by Act No. 2019-01 of 30 April 2019 on the organization and jurisdiction of the national courts; however, for technical reasons, they have yet to be set up. For the moment, they are special chambers of the regional courts that perform the functions of an administrative court.

115. The administrative courts are lower courts competent to hear administrative disputes, except in matters under the responsibility of the Council of State. They are composed of a president and two regional court judges.

#### *Commercial courts*

116. Commercial courts were also established by Act No. 2004-50 of 22 July 2004, repealed and replaced by Act No. 2018-37 of 1 June 2018, itself repealed and replaced by Act No. 2019-01 of 30 April 2019. Only the one in Niamey is currently operating. Until the commercial courts are operational in the other regions, their functions will be performed by the regional courts.

117. Commercial courts, which are composed of professional judges and non-professional commercial court judges, are lower courts competent to hear disputes concerning commitments and transactions between traders, disputes regarding negotiable instruments between any persons, disputes relating to contracts between traders for the purposes of their trading company, collective procedures for the settlement of liabilities and disputes among associates in a trading company.

#### *Labour courts*

118. Labour courts are specialized courts with jurisdiction over individual employment contract disputes and social security disputes. They have been established at every regional court and are composed of a president (professional judge) and two judges with voting power, one designated by employers' organizations and one by the most representative trade unions.

119. Labour court rulings are appealable, except when the amount of the claim is less than CFAF 100,000, in which case the rulings are final.

#### *Rural landownership tribunals*

120. Although rural landownership tribunals have been established by law, they have yet to begin operating; therefore, their functions are being performed by the regional and district courts. They are competent to rule on all disputes relating to rural landownership law, including the ownership or possession of buildings, whether or not they are registered in the rural land registry, and rights flowing therefrom, fields, registered and unregistered land,

access to water sources, pastures, grazing grounds and paths, and damage to crops or livestock.

#### *Juvenile courts*

121. The age of criminal responsibility is 18 years. Minors under 13 years of age are not criminally responsible but may be subject to measures of protection. It is worth noting that measures of protection generally apply to all minors. Minors between the ages of 13 and under 18 who acted knowingly will be prosecuted but, if convicted, will receive a lighter sentence on account of their age.

122. There is at least one juvenile court judge at each regional and district court. Juvenile court judges are competent to investigate and adjudicate cases.

123. Cases involving misdemeanours and infractions are heard by a single juvenile court judge. Felonies are adjudicated by a panel consisting of the president of the regional court and two professional judges, one of whom must be the juvenile court judge who investigated the case.

124. Hearings before the juvenile courts concerning criminal offences are not public. However, reasoned decisions in such cases are read out at a public hearing. The death penalty, which remains in force in the Niger, cannot be imposed on a minor.

125. Regarding protection, the juvenile court judge or juvenile court located in a minor's place of residence or the place where an at-risk minor is found has jurisdiction over cases where the minor's health, safety or morals are in danger or the conditions for his or her development are seriously compromised.

#### *Military Court*

126. The Military Court, established in 2003, has nationwide jurisdiction. It may hold hearings at any location within its jurisdiction. It is composed of professional and military judges and prosecutors appointed by decree of the President of the Republic.

127. The Court's jurisdiction varies according to whether the country is in peacetime, wartime or a state of emergency. In peacetime, the Court deals with:

- Military offences under the Code of Military Justice
- Offences of any kind committed by military personnel while on duty, at military barracks, compounds and establishments, and in host accommodation
- Crimes and offences committed by military personnel against State security as defined in the Criminal Code

128. However, it does not deal with:

- Breaches of international humanitarian law (genocide, crimes against humanity, war crimes) under the Code of Military Justice committed by non-military personnel
- Offences under ordinary law committed by members of the gendarmerie and of the other defence and security forces in the exercise of their civilian criminal investigation police or administrative police duties
- Offences committed by minors aged under 18 years, unless they are members of the armed forces

129. In times of war and emergency, the Court's jurisdiction extends to:

- Any offence against State security, regardless of the perpetrator or accomplice
- Any offence where the perpetrator or one of the co-perpetrators or accomplices is a member of the armed forces
- Any offence committed against the national armed forces, their facilities or their equipment

130. Judgments handed down by the Military Court may not be appealed but may be challenged by means of an application for review by the Court of Cassation.



*Urban district courts*

131. Pursuant to Act No. 2018-37 of 1 June 2018 on the reorganization of the judiciary, urban district courts were introduced in regional capitals, which were split into urban districts (*arrondissements communaux*) to relieve the burden on regional courts. In civil, customary and commercial matters, they have the same powers as district courts. In criminal matters, they hear cases involving misdemeanours and infractions, with the exception of the serious offences listed in article 83 of the aforementioned Act, which remain under the purview of regional courts.

*Rural district courts*

132. A rural district court has been established in each rural district (*commune*) that did not already have a district court. It is a single-judge court with jurisdiction in respect of any person governed by customary law, regardless of the value of the claim, in any proceedings concerning matters governed by customary law, as provided for in article 72 of Act No. 2018-37 of 1 June 2018, and in any disputes arising from local practices based on customary law.

133. Rural district courts also hear all disputes between lessors and tenants involving verbal or written leases whose value does not exceed CFAF 1 million per year. Lastly, in civil and commercial matters, they handle claims not exceeding CFAF 1 million.

**(c) Other competent human rights authorities**

134. At the administrative level, there are other bodies, some provided for by the Constitution and others established by legislation or regulations, that are responsible for promoting and protecting human rights. They include the following:

*Parliament*

135. The parliament of the Niger comprises a single chamber known as the National Assembly. It is made up of 171 deputies chosen in elections based on universal, direct, free and equal suffrage and held by secret ballot. From a legislative standpoint, one of the parliament's key roles is to establish legal frameworks and policy guidelines and to ensure that they comply with international and regional human rights standards.

136. The parliament authorizes the ratification of international and regional human rights instruments signed by the executive branch and passes the laws required to incorporate them into domestic legislation. The parliament oversees the executive branch, in particular to ensure that the latter fulfils its role of respecting, protecting and promoting human rights, and thus holds the Government accountable to the people. It ensures the harmonization of legislation, regulations and practices with the international human rights instruments to which the State is a party.

137. The parliament votes on the State budget and on the share of resources allocated to the various institutions responsible for promoting and protecting human rights.

*National Human Rights Commission*

138. The Commission was set up pursuant to article 44 of the Constitution of 25 November 2010 and is governed by Organic Act No. 2012-44 of 12 August 2012, which established its composition, organization, responsibilities and working methods. It is an independent administrative authority that complies with the Paris Principles and is accredited with A status by the Global Alliance of National Human Rights Institutions (GANHRI).

139. The Commission is responsible for ensuring that human rights are respected throughout the country. It deals with cases on the basis of written or verbal requests or on its own initiative. Promoting human rights is a core duty of national human rights institutions. It involves helping people to understand their rights and the redress mechanisms available to them in the event of a violation of those rights by raising public awareness through information and education. Public awareness-raising activities can take the form of general or targeted campaigns. General awareness-raising campaigns provide the public with basic information on human rights, along with explanations of the Commission's duties and

mandate. Targeted awareness-raising campaigns, on the other hand, focus on a specific right or set of rights.

140. In accordance with article 20 of the aforementioned Act, the Commission is tasked with “promoting human rights in general and the rights of women, children, persons with disabilities and other vulnerable persons in particular ... throughout the country”.

141. In view of the sociopolitical situation in the country, which is characterized by a high rate of illiteracy, awareness-raising seems to be the best way to guarantee the promotion of human rights. According to the 2018–2019 harmonized survey on household living standards, the literacy rate stands at 34.3 per cent overall, 34.4 per cent for men and 33.4 per cent for women.

142. Human rights education and training is the Commission’s second key pillar for fostering a human rights culture and disseminating human rights. As part of its mission to protect human rights, the Commission participates fully in the development and implementation of human rights education programmes.

143. As part of the protection of human rights, the law grants the Commission prerogatives to monitor respect for human rights throughout the country. The Commission’s general oversight mission is not, in principle, limited, and is an essential means of protecting human rights. It involves gathering evidence of human rights violations through investigations and fact-finding missions. The Commission thus has the power to conduct investigations and inquiries into human rights violations and to hear and investigate complaints or requests relating to individual situations or general concerns. Once it has completed its investigations, the Commission informs the Government of any human rights violations it has identified and proposes initiatives to put an end to them. Each year, it submits a report to the National Assembly on the human rights situation in the Niger.

144. The Organic Act also assigned advisory or quasi-legislative functions to the Commission. These entail submitting to the parliament and any other competent body, on an advisory basis, either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights (art. 21). These opinions concern “all matters relating to the promotion and protection of human rights, in particular bills and legislative proposals on human rights”. To this end, the Commission has the power to examine and comment on existing legislation and on legislation under consideration by the Government and the parliament. In so doing, it ensures that national legislation, regulations and practices are in harmony with the international instruments to which the State is a party. This prerogative is considered to be a power to offer suggestions and is general in scope, in that it involves examining all laws and situations, in addition to existing legislation, policy and practice “aimed specifically at preserving and extending human rights”. Therefore, it applies to laws in force and to bills and other regulations concerning all human rights.

145. Pursuant to article 21 of the Organic Act, the Commission is also responsible for helping to ensure the harmonization of national legislation with international and regional human rights instruments and their effective implementation. It does this by encouraging the ratification and implementation of international standards and by monitoring their application.

146. The Commission’s remit was strengthened through the adoption of Act No. 2020-02 of 6 May 2020, which conferred on it the mandate of an independent national mechanism for monitoring places of detention in accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which the Niger acceded in 2014.

#### *High Council for Communications*

147. Provided for by the Constitution, the Council is governed by Organic Act No. 2012-34 of 7 June 2012 on the composition, responsibilities, organization and working methods of the High Council for Communications. It is an independent administrative authority whose mission is to guarantee the freedom and independence of the audiovisual, print and electronic media in compliance with the law.

148. The High Council for Communications ensures the effective exercise of press freedom. Its powers were modified through the adoption of Act No. 2018-31 of 16 May 2018 amending Act No. 2012-34 of 7 June 2012 and Act No. 2018-23 of 27 April 2018 on audiovisual communication. It administers the public press assistance fund, which supports the various national outlets and is allocated on the basis of objective criteria. In 2019, the Council distributed CFAF 290,500,000 to 35 private media outlets in the Niger (newspaper, television and radio), including CFAF 88,000,000 for 2016 and CFAF 202,500,000 for 2017. The fund aims to strengthen the technical, material and editorial capacities of private media outlets with a view to fostering the emergence of genuine media companies in the Niger. As a result of recent reforms, the fund will no longer be disbursed in cash to media outlets but will be used to train and equip them. In 2020, 65 per cent of the CFAF 271,482,271 allocated to 23 media outlets was spent on equipment and 35 per cent on training journalists.

149. Regarding the state of press freedom, it should be noted that, on 30 November 2011, the Niger became the first country to sign the Declaration of Table Mountain, which calls for the abolition of criminal laws concerning the offences of defamation and insult committed through the press. According to the Reporters Without Borders 2020 World Press Freedom Index, the Niger ranks fifty-seventh out of 180 countries, having ranked sixty-sixth in 2019, sixty-third in 2018, sixty-first in 2017, fifty-second in 2016, forty-seventh in 2015, forty-eighth in 2014 and forty-third in 2013.

150. The figures for recent years in no way reflect a decline in press freedom in the Niger. Reporters Without Borders has no doubt based its conclusions on the closure of certain private media outlets. In reality, these were simply administrative and fiscal measures aimed at preventing possible public disorder and restoring the State's rights. The closures were motivated solely by the need to put an end to the messages of hatred, revolt and incitement to violence spread by these outlets, and to their tax avoidance. They were carried out, in accordance with the law, to preserve public peace and tranquility and to bring the outlets back into line with the ethics and laws of the Republic.

151. Since the adoption of legislation decriminalizing press offences in 2010, no journalists have been detained for such offences, including defamation and insults. It should be recalled that the legislation does not prohibit the detention of journalists who commit offences under ordinary law. This causes confusion among some people who are outraged whenever a journalist is arrested, irrespective of the reason.

152. The media landscape in the Niger is undergoing significant change. In addition to 2 public and 54 private newspapers, the Niger has eight online news sites. The table below shows the number of public and private television and radio stations broadcasting in the country, by region:

Table 6  
Number of television and radio stations, by region

<i>Region</i>	<i>Private television</i>	<i>Private television relay</i>	<i>Private radio</i>	<i>Private radio relay</i>	<i>Community radio</i>
Agadez	-	4	5	8	21
Diffa	-	3	-	4	16
Dosso	-	4	8	7	22
Maradi	-	4	10	7	27
Niamey	15	-	30	4	7
Tahoua	-	5	9	7	29
Tillabéri	-	3	8	3	38
Zinder	1	4	7	8	33
<b>Total</b>	<b>16</b>	<b>27</b>	<b>77</b>	<b>48</b>	<b>193</b>

Source: High Council for Communications, March 2019.

*Economic, Social and Cultural Council*

153. The Council is a constitutional institution governed by Organic Act No. 2011-40 of 7 December 2011, which established its responsibilities, composition, organization and working methods, and by subsequent amendments thereto. It assists the President of the Republic and the National Assembly in economic, social and cultural matters. It is an instrument of dialogue promoting economic and social progress and represents the Niger in the United Nations Economic and Social Council. It is composed of 91 members democratically appointed by their respective organizations, including 8 permanent members who serve on the Bureau. It holds two ordinary sessions per year of no longer than 15 days and extraordinary sessions at the request of the President of the Republic or the President of the National Assembly. At the end of its sessions, it adopts resolutions on various matters within its remit.

*Interministerial Committee Responsible for Drafting Reports for Submission to the Treaty Bodies and the Universal Periodic Review Mechanism*

154. The Committee was originally established by Order No. 013/MJ/DH/DDH/AS of 17 March 2010 and was attached to the Directorate General of Human Rights of the Ministry of Justice. It has since been placed under the direct authority of the Minister of Justice pursuant to Decree No. 2016-382/PRN/MJ of 22 July 2016 on the organization of the Ministry of Justice. It has a permanent secretariat that acts as its executive body. It is responsible for drafting initial and periodic reports for submission to the United Nations and African treaty bodies and the universal periodic review mechanism, and for follow-up to the recommendations arising from the presentation of these reports. The reform of the Committee and the upgrading of its status have enabled the Niger to overcome delays in the drafting and submission of initial and periodic reports to the treaty bodies and the universal periodic review mechanism.

155. The Committee's work and achievements are described in paragraphs 301 to 311 below.

*Directorate of Human Rights and Welfare*

156. The Directorate was set up within the Ministry of Justice and assigned the following tasks, among others:

- Developing and implementing the National Policy on Human Rights and national programmes and action plans for the promotion and protection of human rights
- Implementing operational measures to prevent human rights violations and, where necessary, proposing appropriate solutions to put an end to such violations, while ensuring compensation for the victims of such violations or their beneficiaries
- Conducting awareness-raising, information and education campaigns on human rights and disseminating and publicizing legal instruments for the promotion and protection of human rights and the recommendations of the bodies responsible for monitoring and applying these instruments
- Monitoring and managing relations between the Ministry of Justice and civil society, associations, NGOs, the National Human Rights Commission and all other national, regional and international organizations working in the field of human rights
- Carrying out studies to identify, plan and evaluate measures to implement national, regional and international human rights standards
- Ensuring the effective application of national, regional and international legal instruments relating to human rights
- Monitoring the management of the consultation framework between the Ministry of Justice and all governmental and non-governmental stakeholders involved in the promotion and protection of human rights and welfare

*Independent National Electoral Commission*

157. The Independent National Electoral Commission, established by article 6 of the Constitution, is responsible for organizing, conducting and supervising voting processes and for announcing provisional results. Under Organic Act No. 2017-64 of 14 August 2017 on the Electoral Code and subsequent amendments thereto, the Commission is a permanent body, independent of any power, authority or organization, and enjoys managerial, organizational and operational autonomy.

158. Since its inception on 3 November 2017 and the swearing-in of its members on 13 November of the same year, the achievements of the new permanent Commission include the establishment of the first-ever biometric electoral register in the Niger, which was used during the most recent local and general elections in 2020/21.

159. The major challenge for the Commission was to establish a reliable and secure biometric electoral register and to organize credible, transparent and democratic elections. In the opinion of several national and international observers, these elections went smoothly overall, strengthening republican institutions and ensuring the first democratic transfer of power in the country since its independence.

*National Council for Political Dialogue*

160. The National Council for Political Dialogue is a permanent framework for the prevention, resolution and management of political conflicts through dialogue and consultation between the political class of the Niger, including all political parties, and the Government on issues of national interest. It was created on 30 January 2004 by Decree No. 2004-030/PRN/PM of the Council of Ministers.

161. The creation of the Council has helped to lay the foundations for stability and the consolidation of democratic and republican institutions. To this end, it must ensure that a dialogue is initiated among its members, particularly with regard to the Constitution, the Political Parties Charter, the Electoral Code and the proper conduct of elections, the constitutional prerogatives of institutions, equitable access to the State media, the rights of the opposition and the Code of Political Ethics. The Council is also responsible for helping to strengthen national unity by fostering a civic culture among the population.

162. The Council meets in ordinary session before each ordinary session of the National Assembly and in extraordinary session whenever necessary. Its decisions are made by consensus. Each legally recognized political party is represented by its leader, who, if unable to attend, designates a representative. The Council is chaired by the Prime Minister, Head of Government, who is assisted by two Vice-Chairs, namely the leader of the opposition and the majority leader. Also present are the Grand Witnesses, representative figures from civil society who are appointed *intuitu personae* and who attend Council meetings as required to make contributions on specific issues.

163. The Council also helps to strengthen and consolidate peace by fostering a civic culture among the people of the Niger. Several training sessions are organized for members of political parties at all levels, with the support of technical and financial partners, to encourage greater civic engagement and enable political parties to play their roles more effectively.

*Office of the Ombudsman*

164. The Office was set up by Act No. 2011-18 of 8 August 2011, as amended and supplemented by Act No. 2013-30 of 17 June 2013. Provided the matter has not already been referred to the courts, it intervenes in:

- Disputes between citizens and the public administration, local authorities, public establishments and bodies entrusted with a public service mission
- Situations of which it is aware and that fall within its purview, whenever it has genuine grounds for believing that a person or group of persons has been or could conceivably be unduly harmed by an act or omission of a public body
- Defending the rights of children and vulnerable persons

- Any action aimed at improvement of the public service or conciliation between the public administration and social and professional groups, at the request of the executive and legislative branches
- Defending citizens' right of access to public information (art. 28 of Ordinance No. 2011-22 of 23 February 2011 establishing a charter for access to public information and administrative documents)

165. By way of illustration, the table below provides information on the Office's activities from 2016 to 2019.

Table 7  
**Complaints received by the Ombudsman**

<i>Year</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>
Number of complaints recorded	118	90	153	180
Number of complaints processed (closed)	73	30	102	114
Number of complaints pending	45	60	51	66
Number of complaints outstanding at year end	45	60	51	66

*Source:* Office of the Ombudsman.

Table 8  
**Cases closed by the Office of the Ombudsman**

<i>Year</i>	<i>Type</i>	<i>To the complainant's satisfaction</i>	<i>Owing to lack of jurisdiction</i>	<i>Complaint rejected</i>	<i>Refusal to cooperate on the part of the administration in question</i>
2016	<i>Cases closed</i>	48	11	9	5
2017	<i>Cases closed</i>	19	4	5	2
2018	<i>Cases closed</i>	62	18	16	6
2019	<i>Cases closed</i>	86	10	13	5

*Source:* Office of the Ombudsman.

#### *High Authority to Combat Corruption and Related Offences*

166. The High Authority is a permanent State body initially created by Decree No. 2011-215/PRN/MJ of 26 July 2011. To remedy the non-compliance of this text with the Jakarta Statement on Principles for Anti-Corruption Agencies and the provisions of the United Nations Convention against Corruption, Act No. 2016-44 of 6 December 2016 was adopted. The latter text now governs the organization, responsibilities and working methods of the institution. It strengthens the legal and institutional capacities of the High Authority, which can take up cases on its own initiative, perform the functions of the criminal investigation police, obtain inspection and oversight reports and proceed with the identification, location, seizure and sealing of evidence, including proceeds of corruption.

167. The High Authority's investigation reports are forwarded directly to the State prosecutor, who must request the opening of a judicial investigation if the facts reported may constitute a criminal offence. The Authority had a National Anti-Corruption Strategy and a related action plan for the period 2018–2020, adopted by Decree No. 2018-007/PRN of 5 January 2018. The Strategy is structured around three major areas: enhancing the prevention of corruption, improving anti-corruption systems and strengthening national and international partnerships and cooperation in combating corruption and related offences.

168. The Authority has a mandate to prevent and combat corruption and related offences. In liaison with the other bodies concerned, it is responsible for designing, drawing up, implementing and monitoring the National Anti-Corruption Strategy and its action plan. It also has Twitter, Facebook and YouTube accounts and a website ([www.halcia.ne](http://www.halcia.ne)) with

complaint and report forms to enable it to reach a wider range of people. This institution is composed of seven permanent members, namely:

- Four national figures from public administrations, including one woman, who are appointed by the President of the Republic
- One elected representative of civil society organizations working to combat corruption
- One elected representative from the private sector working in the field of economics or finance, appointed by the board of the Chamber of Commerce and Industry of the Niger
- One elected representative of women's organizations

#### *High Authority for Personal Data Protection*

169. The High Authority for Personal Data Protection is an independent administrative authority with responsibility for ensuring that the processing of personal data is carried out in accordance with the laws in force and the international conventions to which the Niger is a party. It has legal personality and financial autonomy. It ensures that the processing and use of personal data do not infringe civil liberties or jeopardize citizens' privacy, particularly in the use of information and communication technologies.

170. Its responsibilities thus include:

- Informing personal data subjects and personal data controllers of their rights and obligations
- Responding to requests for opinions on matters concerning personal data processing
- Drawing up a code of conduct for the processing and protection of personal data
- Receiving declarations and granting authorizations for personal data processing, or withdrawing them in the cases provided for by the texts in force
- Receiving statements and complaints relating to personal data processing and informing their authors of the action taken
- Informing the competent judicial authority without delay of any contraventions that come to its attention in the course of its duties
- Determining appropriate measures and essential safeguards for personal data protection
- Carrying out checks on any type of personal data processing, using sworn officials if necessary
- Imposing administrative and financial penalties on personal data controllers who fail to comply with the provisions of the texts in force
- Maintaining a personal data processing directory and making it available to the public for consultation
- Advising individuals and entities involved in personal data processing or carrying out tests or experiments in this field
- Giving its opinion on any draft text relating to personal data protection
- Taking part in scientific research, training and study activities on personal data protection and, more generally, on civil liberties and privacy
- Authorizing cross-border transfers of personal data under the conditions laid down by decree of the Council of Ministers
- Making proposals with a view to simplifying and adapting the legislative and regulatory framework on personal data processing
- Setting up mechanisms for cooperation with personal data processing authorities in other countries

- Participating in international negotiations on personal data protection
- Preparing and submitting an annual activity report to the President of the Republic, the President of the National Assembly and the Prime Minister

#### *Traditional authorities*

171. The traditional authorities are governed by Act No. 2015-01 of 13 January 2015 establishing regulations for traditional authorities, as amended by Act No. 2019-01 of 25 November 2019. In the Niger, as in many other African countries, the role of the traditional leader is reflective of the country's original sociocultural heritage. The traditional leader is the guardian of customs and practices, ensuring that they are respected. However, this traditional role has evolved over time, having been adapted to the purposes of public administration or State power.

172. Today, traditional leaders are responsible for:

- Protecting the individual and collective rights and freedoms of the citizens and communities in their charge
- Preserving harmony and social cohesion
- Ensuring respect for laws and regulations, religious tolerance and respect for customary practices, as long as they do not disturb public order or infringe on the rights and freedoms of other members of the community

173. In addition to preserving peace and social tranquillity, traditional leaders exercise their authority over the entire population of the district, tribe, chiefdom, area or sector, grouping, canton or sultanate, including foreigners living in these localities or on their lands.

174. With regard to conflict prevention and the preservation of peace and social cohesion, traditional leaders are empowered to act as conciliators between parties in customary, civil and commercial matters and in land transactions. In accordance with custom, they regulate families' or individuals' use of cropland and grazing land over which the customary and traditional community under their authority has customary rights recognized by the Government, without prejudice to the provisions of the Rural Code. In all cases, the leader draws up a record of the proceedings resulting in conciliation or non-conciliation. This record must be kept in an ad hoc register, from which an extract is sent to the relevant administrative authority and to the competent court.

#### *Office of the High Commissioner for State Modernization*

175. Established by Decree No. 2005-361/PRN/PM of 30 December 2005, the Office of the High Commissioner for State Modernization, attached to the Prime Minister's office, is responsible, in conjunction with the ministries concerned, for designing, supervising, coordinating, monitoring and evaluating all actions aimed at modernizing the State and local authorities, in accordance with the guidelines laid down by the Government.

176. In respect of decentralization, the Office, which is the successor to the former Office of the High Commissioner for Administrative Reform and Decentralization, has, in accordance with its remit, drawn up the legal and institutional corpus governing decentralization. It led the revision of the regulations that became the General Code on Local Authorities, drew up the texts on the financial support system for local authorities, which resulted in the creation of the Local Authorities Financing Agency, and finalized the draft decentralization charter. In addition, a study on capacity-building for decentralization stakeholders led to the creation of a one-stop training centre at the National School of Administration, run by the Management Training Centre for Local Authorities, and to the drafting of a national policy paper on decentralization.

177. On 12 July 2013, the Council of Ministers considered and adopted a draft decree adopting the national policy paper on State modernization (Decree No. 2013-249/PRN/PM/HCME of 12 July 2013). With the advent of the Seventh Republic, and in line with the guidelines of the Renaissance Programme and the objectives of the Prime Minister's general policy statement, the Office of the High Commissioner for State Modernization has embarked on several projects to implement specific modernization actions.



These include the implementation of the National Policy on State Modernization, the full development of the process of proactively modernizing public services, the launch of the study on changing the behaviour of leaders and citizens, the drafting of procedural manuals for public administration and the start of activities under the State Modernization and Decentralization in the Niger project.

*Office of the High Commissioner for the 3N Initiative (Les Nigériens Nourrissent les Nigériens)*

178. Created by Decree No. 2011-407/PRN of 6 September 2011, this Office is responsible for realizing the vision of the Niger as a country able to withstand any risk of food and nutrition insecurity and where the agricultural sector fully plays its role as a vehicle for social transformation and economic growth. Its aim is to fulfil the national demand for food, and therefore the right to food, with local agricultural and agrifood products, while promoting income generation for producers.

179. The Office is a mission-specific administration attached to the Office of the President of the Republic. It ensures intersectoral coordination and facilitates the achievement of food and nutrition security and sustainable agricultural development objectives in the Niger. It is responsible for coordination, planning, carrying out technical, economic and financial studies, mobilizing funding, driving reforms and monitoring and evaluating progress. The Office's organization and working methods are outlined in Decree No. 2016-603/PRN of 3 November 2016.

180. The strategy for the 3N (Les Nigériens Nourrissent les Nigériens, or People of the Niger Feed People of the Niger) Initiative was adopted by Decree No. 2012-139/PRN of 18 April 2012. Its overall aim is to help ensure that the people of the Niger are sustainably free from hunger and malnutrition and to create conditions conducive to full participation in national production and improvement of income levels. Specifically, the aim is to strengthen national capacities for food production, food supply and resilience to food crises and natural disasters. The 3N Initiative strategy is built around five strategic priorities, namely:

- Strategic priority 1: Growing and diversifying agricultural, forestry, livestock and fisheries production
- Strategic priority 2: Regular supply of agricultural and agrifood products to rural and urban markets
- Strategic priority 3: Boosting populations' resilience to climate change, food crises and natural disasters
- Strategic priority 4: Improving the nutritional status of the population of the Niger
- Strategic priority 5: Leadership and coordination of the 3N Initiative and advocacy of reforms

*Mutual Social Insurance Agency of the Niger*

181. Created by Decree No. 2015-474/PRN/MET/SS of 4 September 2015 establishing a public social welfare institution called the Mutual Social Insurance Agency of the Niger, the Agency has a mandate to monitor and oversee approved mutual social insurance companies and to continue implementing the country's social protection policy. It was established to meet a WAEMU requirement. Article 23 of regulation No. 07-2009/CM/UEMOA of 26 June 2009 regulating mutual social insurance in the WAEMU countries requires each member State to set up an administrative body for mutual social insurance and a national register of mutual social insurance companies. The Niger is the second country in the WAEMU region to have set up such an agency, after Côte d'Ivoire.

*National Social Security Fund*

182. Placed under the supervision of the minister with responsibility for labour, the National Social Security Fund is a public social welfare institution with legal personality and financial independence. It was established by Act No. 2003-0034 of 5 August 2003. Its

mandate is to administer the various branches of social security instituted for employees, as defined in Act No. 2012-45 of 25 September 2012 on the Labour Code, namely:

- The family benefits branch, designed to assist beneficiaries with the costs of childbirth, child-rearing and children's education
- The occupational risks branch, which is intended to prevent work accidents and occupational diseases and, as needed, to mitigate the consequences of such accidents and diseases (temporary or partial disability and death)
- The old-age, disability and survivors' benefits branch, under which income is provided to retired employees and, in the event of their death, to their beneficiaries

183. The Fund also administers a health and social action fund, the purpose of which is to provide benefits in kind to employees and their families. Today, some of these benefits in kind are extended to the entire population (insured and non-insured), namely health care provided by the Fund's medical and social welfare centres and vocational training in the women's divisions of the Social Advancement Centres for girls and women in need who are not enrolled in school.

#### *National Commission for Social Dialogue*

184. The Commission is a quadripartite body for consultation and ongoing discussion between the social partners on issues relating to employment disputes of all kinds. It is made up of 32 members, including 8 members from each of the following groups: the Government, the most representative employers' organizations, the most representative workers' organizations, and civil society and cooperatives.

185. Its purpose is to promote social dialogue in the Niger. Its responsibilities thus include:

- Effective establishment of social dialogue between the social partners
- Prevention and management of collective disputes
- Facilitation of collective dispute settlement

#### *Independent Pension Fund of the Niger*

186. Created under Act No. 2012-69 of 31 December 2012, the Independent Pension Fund of the Niger is a public social welfare institution with responsibility for granting, liquidating and paying the pensions of civil servants. It has been in operation since the adoption of Decree No. 2014-490/PRN/MFP/RA/MF of 22 July 2014 approving its bylaws. The decentralization of pension processing services is under way, with the creation of two Independent Pension Fund regional offices in Maradi and Tahoua, which are responsible for receiving, processing, transmitting and monitoring pension files, as well as issuing certificates of coverage of retirees' medical expenses. The Fund is also committed to sponsoring orphans of active and retired civil servants, by paying for their wedding expenses and providing housing for the couple or family.

#### *National Financial Information Processing Unit*

187. The Unit was established under Act No. 2004-41 of 8 June 2004, repealed by Act No. 2016-33 of 31 October 2016 on the fight against money-laundering. Its mandate is to collect and process financial intelligence on money-laundering and terrorist financing flows. On 26 July 2019, the Council of Ministers adopted, by decree, the National Money-Laundering and Terrorist Financing Risk Assessment Report, in accordance with the recommendations of the Financial Action Task Force and taking into account Directive No. 02/2015/CM/UEMOA of 2 July 2015 on the fight against money-laundering and the financing of terrorism.

#### *Inspectorate General of Judicial and Prison Services*

188. This entity's mandate is to foster integrity in the judicial and prison sectors and to improve the supervision of court officers and the living conditions of prisoners. Its operations were improved and its staffing was strengthened in quantity and quality through the adoption

of Decree No. 2019-304/PRN/MJ of 7 June 2019. The service now comprises several departments, whose responsibilities and organization will be laid down by decree.

*“Green Line” National Coordination Unit*

189. The Unit was created in response to the need to implement the United Nations Convention against Corruption. Its mandate is to combat corruption, influence peddling and related offences in the judicial system. Its composition, working methods and responsibilities were reorganized by Decree No. 2019-305 PRN/MJ of 7 June 2019. A toll-free number (08001111) is available to enable the public to report any acts of corruption of which they have been victims or witnesses.

*Central Agency for the Management of Seized, Confiscated, Frozen and Recovered Criminal Assets*

190. Established under Decree No. 2017-599 of 13 July 2017, the Agency carries out a public service mission in the management of property that has been seized or confiscated in the context of criminal proceedings. Its main tasks include:

- Management of all property, of any nature whatsoever, that has been seized, confiscated, frozen or placed under a provisional measure in the course of criminal proceedings
- Centralized management of all sums seized during criminal proceedings
- Management of assets recovered during criminal proceedings
- Disposal of seized property, with the authorization of the State prosecutor or investigating judge, and special management of property, in consultation with the State prosecutor or investigating judge
- Coordination of the execution of judgments and orders for the forfeiture of property, and assistance in respect of related cases, at the request of the State prosecutor
- Provision of general thematic information to State prosecutors and criminal investigation departments
- Provision of assistance as part of international mutual legal assistance concerning the seizure, confiscation, freezing and recovery of assets, in liaison with the Office of Legal Cooperation and International Mutual Assistance in Criminal Matters
- Oversight of the implementation of criminal law policy by State prosecutors, criminal investigation departments and services of the Ministry of Justice with responsibility for enforcing sentences involving the forfeiture of property outside the national territory, and the enforcement of such sentences by investigating judges and the Director of Lands and Surveys

*National Coordinating Commission to Combat Human Trafficking and Migrant Smuggling*

191. Placed under the authority of the Minister of Justice, the National Coordinating Commission to Combat Human Trafficking and Migrant Smuggling was created under Ordinance No. 2010-86 of 16 December 2010 on trafficking in persons. The Commission is the driving force behind the design and development of policies and programmes to prevent trafficking in persons. As such, it draws up national policies and programmes to combat such trafficking and submits them to the Government. These policies and programmes, once translated into national action plans, are implemented by the National Agency to Combat Trafficking in Persons.

192. The Commission is headed by its officers, consisting of a Chair, a Vice-Chair and two rapporteurs. In addition, there are 16 other members representing State and non-State stakeholders. In liaison with the interministerial committee responsible for drafting reports for submission to the universal periodic review mechanism, initial and periodic reports and the report of the National Agency to Combat Trafficking in Persons, the Commission contributes to the drafting of reports on the implementation of legal instruments related to

trafficking in persons. Act No. 2015-36 of 26 May 2015 on migrant smuggling extended the Commission's remit to cover the smuggling of migrants.

*National Agency to Combat Trafficking in Persons*

193. Placed under the authority of the Minister of Justice, the National Agency to Combat Trafficking in Persons was created under Ordinance No. 2010-86 of 16 December 2010 on the fight against trafficking in persons. It is the operational unit for the execution and implementation of the national policies and strategies adopted by the National Coordinating Commission to Combat Human Trafficking and the related action plan. Accordingly, it develops and carries out awareness-raising, training and education campaigns to reduce recurrent risks of trafficking in persons.

194. Natural and legal persons and transport companies report trafficking-related information of which they are aware to the Agency, which analyses these reports. When this analysis leads the Agency to suspect that trafficking may be taking place, it draws up a detailed report, which it immediately forwards to the State prosecutor with territorial jurisdiction for legal action.

195. Furthermore, pursuant to article 6 of the aforementioned ordinance, the Agency, in cooperation with the judicial and police authorities and any other relevant governmental and non-governmental bodies, collects and periodically publishes information on:

- The number of traffickers arrested, prosecuted and convicted of trafficking in persons or related offences
- The number of victims, their age, gender and nationality and the methods used to recruit them
- Trafficking routes and main trends (countries of origin and transit)
- The means of transport used
- Details of how the borders of the Niger were crossed (with or without false documents)
- The number of national and transnational trafficking cases
- The number of repatriations to or from the Niger

196. The Agency, in cooperation with national and international partners, organizes and coordinates training on the prevention of trafficking in persons for members of the law enforcement, prosecution, adjudication, immigration and other relevant services.

197. The Agency is headed by a Director General. It has four departments, each with a department head. It has regional representatives at each regional court. Lastly, under Act No. 2015-36 of 26 May 2015, the Agency's remit was expanded to include the smuggling of migrants.

*National Agency for Legal and Judicial Assistance*

198. This entity was established by Act No. 2011-42 of 14 December 2011 setting out the rules applicable to legal and judicial assistance and creating a public administrative body called the National Agency for Legal and Judicial Assistance. Its purpose is to make legal and judicial assistance available to certain categories of vulnerable people and to those who do not have the necessary income to meet the costs of a trial. The Agency helps to develop and implement national policies on legal and judicial assistance and coordinates all related activities. Its responsibilities also include providing a framework for consultation between the various stakeholders and mobilizing financial, material and human resources.

199. To ensure the right to a defence, in 2018–2019, there were 124 lawyers registered at the only existing bar, the one in the Appeals Court of Niamey, and 9 trainees, bringing the total to 133. To make up for the scarcity of lawyers, the State has instituted a system of court-appointed defence lawyers, consisting of volunteers appointed by order of the Minister of Justice to defend people who cannot afford the services of a professional lawyer.

**(d) Justiciability and applicability of instruments in the national legal system**

200. Article 2 of the Code of Civil Procedure stipulates that all persons have the right to bring proceedings before a competent national court in respect of any act that violates the fundamental rights recognized and guaranteed by the Constitution, international conventions and the laws and regulations in force. Thus, once a convention has been ratified and published in the Official Gazette, it takes full effect. However, for some international human rights instruments to be applied, existing laws need to be amended or domestic measures need to be adopted. The treaty provision cited by the individual must have direct effect, and for this to be the case, it must meet a number of criteria.

201. When an individual invokes a treaty provision, in order for it to be applicable by a judge, it must be self-executing. This means it must be precise, complete and unconditional. However, the adoption of domestic implementing legislation is necessary in certain cases. In fact, many conventions unambiguously impose an obligation on States parties to adopt implementing regulations.

202. On occasion, court rulings in the Niger have referred to international conventions, such as the Convention on the Rights of the Child, for example in a child custody case to determine where the child's best interests lay, and the International Covenant on Civil and Political Rights in a case in which the fairness of a trial was at issue.

**(e) Remedies, compensation and rehabilitation for victims of rights violations**

203. In the performance of their duties, all of the above-mentioned courts are competent to hear disputes concerning a violation of human rights, whether the rights are enshrined in ratified international instruments, the Constitution or the laws and regulations in force. As guardians of fundamental rights and freedoms, judges have a duty to monitor respect for human rights and to condemn violations. There are, however, non-judicial procedures for protecting rights and freedoms.

204. Jurisdiction over violations of freedoms may be administrative, civil, criminal, constitutional, social or electoral, depending on the actions or status of the perpetrator of the violation. Thus, appeals on the grounds of ultra vires against an adverse administrative decision fall under administrative jurisdiction; violations that constitute offences fall under criminal jurisdiction; civil, commercial or customary complaints fall under civil jurisdiction; disputes relating to labour relations between an employer and an employee fall under social jurisdiction; disputes relating to referendums and local, legislative or presidential elections fall under electoral jurisdiction; and challenges to the constitutionality of a text fall under constitutional jurisdiction.

**(f) Administrative remedies**

205. The administrative courts have jurisdiction over all disputes concerning administrative decisions and the actions of the Administration, meaning that they have full jurisdiction. Any nationals of the Niger or foreigners who fall victim to an unlawful infringement of one of their freedoms or a violation of their rights by a public authority may seek to have the decision invalidated by filing an appeal on the grounds of ultra vires. They can also claim compensation for the damage caused.

206. The Council of State has both first-instance and final jurisdiction over appeals on grounds of ultra vires, the administrative courts have first-instance jurisdiction and the administrative divisions of the appeals courts have jurisdiction over appeals against administrative court decisions. Appeals on points of law against appeals court decisions are heard by the Council of State.

207. Any decision taken by the administrative authorities may be appealed on the grounds of ultra vires, but before bringing legal action the complainant must submit an application for reconsideration or an appeal to a higher administrative authority within 2 months, or 15 days in the case of an individual measure, after the publication or notification of the decision. If the application or appeal is rejected, or if the administration does not respond for more than 2 months or 15 days, as the case may be, the complainant is entitled to lodge an appeal with the courts. The court may invalidate the decision for one of the following reasons: lack of

competence of the issuer of the decision, procedural irregularities, misuse of power or violation of the law. The decision will be rendered invalid with respect to all persons and as from the date on which it was issued.

**(g) Judicial remedies**

208. The ordinary courts intervene in disputes between private individuals, in particular with regard to the protection of rights in relations between private individuals, but also between persons and the Administration, in particular in the case of infringement of a fundamental individual freedom (unlawful physical act). The jurisdiction of an ordinary court may therefore be of a criminal, civil, commercial, customary or social nature, depending on the type of dispute between the parties.

209. The ordinary courts of the Niger are divided into two categories: those that rule at first instance and those that rule at final instance. The courts of first instance are the various courts described in paras. 101 to 125 above, and those of final instance are the appeals courts, the Military Court and the High Court of Justice. The double-hearing principle governs justice in the Niger. Anyone who is dissatisfied with a decision at first instance has the right to lodge an appeal before a higher court in the proper form and within the applicable time limit. After each decision, the court is obliged to inform the parties of this right.

210. As a consequence, decisions handed down by the courts can be appealed in the appeals courts. However, the following exceptions should be noted: in customary matters, appeals against decisions handed down by judges in charge of customary matters at district courts, urban district courts and regional courts are brought before the regional court; and in social matters in which the amount of the claim does not exceed CFAF 100,000 the decision is not subject to appeal. Lastly, the Military Court hands down decisions at first and final instance.

211. The appeals courts hand down final decisions, which can only be appealed before the Court of Cassation. The Court of Cassation is not a third level of jurisdiction, in that it rules only on points of law.

**(h) Constitutional remedies**

212. The Constitutional Court can be called upon to review the constitutionality of laws and interpret the Constitution through an interlocutory motion. Thus, any party to legal proceedings can raise the unconstitutionality of a law before any court. The court must stay proceedings until the Constitutional Court has delivered its decision, which it must do within 30 days. A provision declared unconstitutional is null and void as a matter of law. The unconstitutionality ruling of the Constitutional Court is published in the Official Gazette as a matter of urgency.

213. The Constitutional Court may also be requested to rule on constitutionality as a stand-alone matter, but only by the President of the Republic, the President of the National Assembly, the Prime Minister or one tenth of the deputies. Decisions of the Constitutional Court are not subject to appeal. They are binding on the Government and on all administrative, civil, military and judicial authorities.

**(i) Electoral remedies**

214. Special chambers of the regional courts rule on the eligibility of candidates and monitor the proper conduct, transparency and fairness of local elections. They also announce the results. Appeals against decisions of the regional courts in election-related cases are lodged with the Council of State, which rules at final instance in such matters.

215. The Constitutional Court supervises the proper conduct of presidential and legislative elections. It examines complaints, rules on disputes relating to the presidential and legislative elections and announces the results of the ballots. It rules on the proper conduct of referendums and announces the final results. The Constitutional Court is competent to rule on appeals on the grounds of ultra vires in electoral matters, without a prior administrative appeal. It must rule within five days after the appeal is filed with the registry of the Court.

**(j) Non-judicial remedies**

216. Separately from legal recourse, private individuals who are dissatisfied with administrative decisions concerning them can submit requests for their invalidation, either directly to the issuer of the decision, through an application for reconsideration or to the hierarchical superior of the public authority that issued the decision. In this way, the individual can have the decision either withdrawn by its issuer or overturned by the issuer's superior.

217. Any person who considers that his or her rights have been infringed by an administrative decision may refer the matter to the Office of the Ombudsman, as long as the dispute has not been submitted to a court of law.

**(k) Compensation and victim support system**

218. Article 1382 of the Civil Code provides that "the perpetrator of any act that causes damage to another person shall be obliged to make reparation". This refers to individual civil liability, which means that if the victim can prove a causal link between the misconduct committed and the harm suffered, the court will award compensation. Such harm may result from the non-performance or improper performance of a contract, from accidental damage or from the perpetration of a misdemeanour or a felony. Damages awarded by the court are intended to compensate for both pecuniary and non-pecuniary damage, provided that it is indisputable and direct. Compensation may therefore be awarded for losses suffered, profits lost and real opportunities missed, if they appear to be indisputable.

219. In the event that the authorities are liable, whether as a result of misconduct or not, the victim may claim compensation from the State, which may then bring an indemnity action against the public employee at fault. Damage caused by a public authority is compensable if it is indisputable, direct and attributable to the public service. In cases of liability *sine delicto*, it must also be extraordinary and exceptional. Misconduct may be an error committed by a specific public official, and therefore a case of individual misconduct, or an error occurring in the public service, and thus anonymous.

220. Act No. 2018-86 of 19 December 2018 established a compensation fund for victims of acts of terrorism, but it is not yet operational.

221. Access to justice is a fundamental right enshrined in various national and international legal instruments, in particular the Constitution and the International Covenant on Civil and Political Rights. The National Agency for Legal and Judicial Assistance was established by Act No. 2011-42 of 14 December 2011 to support victims. Its purpose is to make legal assistance available to all, and judicial assistance available to certain categories of people. For the Agency, legal assistance consists of organizing a range of services to improve understanding of the law, justice and its institutions, prevent conflicts and facilitate the settlement of disputes.

222. Legal assistance services are provided free of charge to all, irrespective of nationality, sex, age or any other consideration, even in the absence of legal or administrative proceedings. These services are provided at local legal and judicial assistance offices or in other spaces and take the following forms: raising awareness among individuals or groups of the law in general and the justice system; legal consultations, advice, procedures and referral of individuals to the authorities, administrations or institutions responsible for enforcing their rights; and assistance for citizens in drafting legal acts that do not fall within the exclusive remit of other natural or legal persons.

223. Judicial assistance, in contrast, is provided on the basis not only of illiteracy or poverty, but also of other constraints such as distance from the courts, lack of access to lawyers owing to their concentration in the capital, the high cost of lawyers' fees and the high cost of certain judicial proceedings. During such proceedings, beneficiaries of judicial assistance receive support and are defended by a lawyer or a court-appointed defender who is not a lawyer, and the costs related to the proceedings are covered. The beneficiaries of judicial assistance are persons in situations of vulnerability and absolute poverty.

224. The following categories of vulnerable persons are automatically entitled to judicial assistance:

- Juveniles being prosecuted for a felony, misdemeanour or infraction
- Juvenile victims before a criminal court
- Defendants with disabilities or civil parties who are unable to defend themselves because of their disability
- Accused persons appearing before criminal courts
- Women victims of the acts of violence referred to in chapters II, III, VI and VIII of title III of the Criminal Code
- Women seeking payment of maintenance, settlement of an estate or child custody

225. Legal assistance services were provided to 22,153 persons between 2015 and 2018. During the same period, judicial assistance was provided to 3,371 persons. With a view to improving the Agency's operations, an assessment of the 10 local legal and judicial assistance offices was carried out in March 2019 and an activity programming workshop was organized in Dosso in April 2019 with technical and financial support from the United Nations Development Programme (UNDP). This gave rise to several activities, including training in trial advocacy for 36 court-appointed defenders who were not lawyers (16 in Dosso and 20 in Zinder) and training for journalists on the role of the media in implementing the legal and judicial assistance mechanism. As a result of this workshop, 30 male and female media professionals received training, and women in six regions (Diffa, Maradi, Niamey, Tahoua, Tillabéri and Zinder) benefited from awareness-raising. The latter initiative, which was part of the commemorative activities for 13 May, provided more than 1,000 women with information about the legal and judicial assistance mechanism and about gender-based violence.

**(I) Institutions and national machinery with responsibility for overseeing the implementation of human rights (women, children, persons with disabilities, older persons, refugees, internally displaced persons, migrant workers, non-authorized aliens)**

*Women's rights*

226. At the institutional level, the Ministry for the Advancement of Women and Child Protection remains the government structure in charge of gender advocacy. The Niger has a National Gender Policy that was revised, and then adopted on 10 August 2017, to take into account new challenges, including those related to population issues, the environment, security, humanitarian emergencies, migration and climate change. Also noteworthy is the establishment of the National Gender Observatory in 2017.

227. On the socioeconomic front, the Niger has set up a number of structures to improve the living conditions of the population, particularly women. These efforts include:

- The 3N Initiative, which provides women with equipment to facilitate their domestic chores and funds for income-generating activities
- The implementation of the social safety nets programme
- The establishment of a one-stop shop within the Enterprise Centre to support women in opening businesses
- The national strategy for women's economic empowerment and its five-year action plan for 2018–2022
- The establishment of 342 multipurpose hubs in seven regions (Diffa, Dosso, Maradi, Tahoua, Tillabéri, Zinder and Niamey), including 102 in 2018, that are equipped with grain mills, huskers, battery chargers, oil presses, grinders, dryers, saws, water pumps with or without water towers and/or water distribution networks and electrical mini-networks with lights



- The implementation of a programme to better protect girls, which supports hundreds of girls excluded from the school system or not enrolled in school by including them in productive activities such as market gardening, livestock fattening, small-scale commerce and sewing

228. On the social front, measures aimed at changing attitudes and social prejudices towards girls and women in the Niger include:

- The implementation of an initiative for adolescent girls, known as Illimin, which provides safe spaces in which adolescent girls learn to manage their fertility responsibly and supports a favourable community environment by involving the community in the fight against child marriage and early pregnancy, and fosters knowledge of life skills, reproductive health and family planning
- The implementation of the Sahel Women’s Empowerment and Demographic Dividend Project, which included the establishment of “future husbands clubs” in which boys learn about sexual and reproductive health and develop positive attitudes towards gender relations, in five regions of the Niger, namely Tillabéri, Dosso, Tahoua, Maradi and Zinder
- The establishment of the National Observatory on the Demographic Dividend under Order No. 0027/MPO/SG/DL of 7 March 2018, a body that provides information intelligence by continuously monitoring indicators relating to the production, analysis and dissemination of economic and social data in order to advise decision-makers
- On the legal front, the State is continuing its efforts, in particular with the adoption by the National Assembly of Act No. 2017-22 of 21 August 2017 ratifying the statute of the Women Development Organization of the Organization of Islamic Cooperation and the development of the module “Islam, family planning and human rights”

229. To improve women’s representation in decision-making bodies, in 2019 the Niger revised the law establishing a quota system for elected office, the Government and the State administration, raising the rate from 15 per cent to 25 per cent for elected positions and from 25 per cent to 30 per cent for appointed positions.

230. Some of the key measures taken to combat gender-based violence are set out below.

- In 2017, a national strategy for preventing and responding to gender-based violence and a related five-year action plan for 2017–2021 were adopted, with the aim of reducing the prevalence of gender-based violence in the Niger from 28.4 per cent to 15.4 per cent by 2021 and contributing to the implementation of strategic priority 2 of the National Gender Policy, “Strengthening the institutional and legal framework for the effective application of the rights of women and girls, the fight against gender-based violence and the equitable participation of men and women in the exercise of power”.
- With the support of the European Union, the Spotlight Initiative was introduced. The aim of the Initiative is to eliminate all forms of violence against women and girls, including girls with disabilities, with a particular focus on sexual and gender-based violence, including harmful practices and their link to sexual and reproductive health. During the first phase, in 2019 and 2020, efforts focused on the four regions with the highest prevalence of gender-based violence: Maradi, Tahoua, Tillabéri and Zinder.
- As part of the humanitarian programme in the Diffa region, a handbook, which had been drafted in 2017, on standard operating procedures for preventing and responding to gender-based violence was adopted. In 2018, 341 incidents of gender-based violence were reported and recorded, of which 29 per cent involved the denial of resources, opportunities or services, 16 per cent involved sexual assault, 27 per cent involved physical assault, 5 per cent involved forced marriage and 23 per cent involved psychological abuse.

#### *Rights of the child*

231. The Niger pays particular attention to the protection of children. For this reason, it has ratified the Convention on the Rights of the Child and the African Charter on the Rights and

Welfare of the Child, among other instruments, and has adopted a number of legislative, institutional and other measures, including:

- Decree No. 2010-474/PCSRD/MPPF/PE of 4 June 2010 setting out the conditions for the set-up and operation of private reception, counselling, guidance and accommodation establishments for children
- Decree No. 2013-247 of 5 July 2013 on the national policy for comprehensive early childhood development
- Decree No. 2013-344 du 23 August 2013 on the framework document and action plan for child protection
- Order No. 0041/MJ/GS/PPG of 28 March 2014 on the establishment of social services at the local level
- Act No. 2014-060 of 5 November 2014 amending the Nationality Code
- Act No. 2014-72 of 20 November 2014 on the jurisdiction, responsibilities and working methods of the juvenile courts
- Order No. 0000031/MPF/PE/SG/DGPE/DL of 18 January 2017 on the establishment, responsibilities and working methods of transit and orientation centres for children allegedly associated with armed or terrorist groups and children who have experienced dangerous migration or trafficking
- Act No. 2017-005 of 31 March 2017 establishing community service
- Order No. 000027/MPF/PE/SG/DL of 11 May 2017 on the establishment, responsibilities, organization and working methods of social centres for prevention and for child advancement and protection
- Order No. 0116/MJ/GS/SG/DGDH/PJJ/AS of 17 July 2017 on the establishment, organization, responsibilities and working methods of reintegration centres for children in conflict with the law
- Decree No. 2017-935/PRN/MEP/PLN/EC/MES of 5 December 2017 on protection, support and assistance for girls attending school, issued following an information and awareness-raising meeting with members of the ulama and representatives of civil society
- Order No. 000008/MJ/GS/SG/DGDH/PJJ/AS of 23 January 2018 on the establishment, composition, responsibilities and working methods of the juvenile justice protection committees
- Decree No. 2019-369/PRN/MPF/PE of 19 July 2019 on the establishment, responsibilities, organization, composition and working methods of child protection committees at the national, regional, departmental, district, village and cantonal levels
- Joint Order No. 000335MEP/A/PLN/EC/MES/MEP/T of 22 August 2019 amending and supplementing Order No. 000025 of 4 February 2019 on the terms of protection, support and assistance for girls attending school
- Joint Order No. 000042/MPF/PE/MJ/MI/SP/D/AC/R/MAE/C/NI/NE of 5 September 2019 on the establishment, responsibilities, composition and working methods of the central authority for national and international adoption

232. A number of institutions have been set up for the advancement and protection of children, including:

- The Directorate of Communication and Advocacy for Children's Rights, under the ministry responsible for child protection, which is tasked with promoting and coordinating communication activities aimed at changing behaviours
- The Directorate for the strengthening of the institutional framework for children's rights under the Ministry of Population, Advancement of Women and Child Protection

- Social centres for prevention and for child advancement and protection, which are decentralized units with the exclusive mandate to ensure administrative protection for children and maintain functional ties with the justice system
- Transit and orientation centres, which provide psychosocial support to all children admitted to them and ensure their social and occupational reintegration
- Regional child protection committees, which are responsible, under the national child protection policy, for coordinating and ensuring the effectiveness of government protection efforts at the regional level
- One-stop assistance centres for children on the move, under the Ministry of Population, Advancement of Women and Child Protection

233. In addition to the legal and institutional framework, the authorities have adopted policies, programmes and action plans that receive funding from the State and from technical and financial partners. The most relevant are:

- National guidelines on the care of children in vulnerable situations, which were developed and endorsed in 2010 and constitute a national standard for all interventions in this area
- The national framework document for child protection, or the national policy for the protection of children from abuse, violence and exploitation
- The national child protection programme, which is a tool for implementing the national child protection policy
- The document on the restructuring of the social welfare services, which defines the various entities responsible for implementing the national policy at the operational level, along with their mandate and operating rules
- The national policy on comprehensive early childhood development, which provides the framework for all activities regarding children from birth to age 8 in the areas of survival, development (education) and protection
- Community-based child protection programmes, which focus on two areas, namely social activities aimed at behavioural change and support for local development through the financing of microprojects identified by the communities themselves
- The 2017–2021 strategic plan to strengthen the civil registry system, whose goal is to achieve universal birth registration
- The 2019–2021 national strategic plan to end child marriage
- The 2018 project on the protection of children on the move in the Niger

234. The draft Children’s Code is in the process of being adopted. Given the sensitivity of some of the topics it covers and the social tensions that are likely to result, the Government found it prudent to intensify awareness-raising and training on child protection issues, including social and cultural practices, to encourage the entire population to voluntarily, consciously and actively abide by the Code, which is in line with international and regional legal standards.

#### *Rights of persons with disabilities*

235. The Economic and Social Development Plan 2017–2021, whose goals include building the resilience of the economic and social development system, boosting employment and reducing inequalities, provides for specific actions for vulnerable population groups (women, young people, persons with disabilities, older persons) through initiatives such as improved social protection and the creation of income-generating activities and jobs. It takes into account the needs of persons with disabilities, in particular by supporting the activities of associations for persons with disabilities, enhancing community-based rehabilitation programmes and strengthening the implementation of the Convention on the Rights of Persons with Disabilities, Act No. 2018-022 of 27 April 2018 on the fundamental principles of social protection and Act No. 2019-62 of 10 December 2019 on the fundamental principles of the integration of persons with disabilities.

236. The pursuit of the 3N Initiative, whose overall aim is to help protect the people of the Niger from hunger and to create conditions conducive to full participation in national production and improvement of income levels, is an integral part of the fight against the stigmatization of persons with disabilities.

237. In terms of the access of persons with disabilities to social services, the Government's priorities are the implementation of youth integration activities, the construction and rehabilitation of socioeconomic centres and the strengthening of humanitarian actions, including the support provided to schools for deaf and blind persons (food, blankets, basic supplies, etc.).

238. The Niger is making considerable efforts in the area of health to enhance the quality and accessibility of health-care services, going so far as to roll out specific strategies in certain areas, such as free health care. As at 31 January 2019, the welfare department's social services had registered more than 4,000 persons with disabilities and members of their families who benefited from free medical care.

239. In addition, the Niger has rolled out the Health-care Development Plan (2017–2021), which includes actions to prevent and combat disabling illnesses through a number of health-related projects and programmes. Free medical care for children under age 5 and for women, including prenatal care, caesarean births, family planning, and cancer and obstetric fistula screening and care, is also available to persons with disabilities.

240. In collaboration with the International Committee of the Red Cross, the State, through the orthopaedic centres at the national hospitals in Niamey and Zinder, plays a leading role in providing persons who have motor disabilities with the equipment they need to function and better integrate into society. As for the accessibility of health-care and education infrastructure, ramps have been built and reasonable accommodations have been made in buildings to facilitate their use by persons with disabilities, with support from the State, local authorities and technical and financial partners such as Humanity & Inclusion.

241. In the areas of education and training, the sectoral programme on education and training (2014–2024), a holistic document bringing together all levels of education and training, takes into account the education of persons with disabilities. Two disability divisions have been established under the ministries responsible for primary education and vocational training; the national rehabilitation programme and the persons with disabilities training strategy have been revived through the establishment of 58 inclusive classrooms in 25 ordinary schools; and assistance is being provided to children with special educational needs, as an area of concern for the State.

242. A Braille print shop has been established and, under the national strategy for the education of children with disabilities, secondary school students and students at technical institutes and schools are provided with computer equipment with support from the Niger National Union for the Blind. Specialized teachers and students with visual impairments from the regions of Maradi, Dosso and Niamey have been trained in the use of computers, and awareness-raising tours on inclusive education have been organized to mark National Persons with Disabilities Day, thus illustrating the State's commitment to respecting and enforcing the rights of persons with disabilities.

243. In the vocational instruction subsector, the Support Fund for Vocational Training and Apprenticeships finances assistance for craftspersons with disabilities in a number of occupations. In terms of employment, articles 10 and 46 of the Labour Code and article 49 of the General Civil Service Regulations strengthen access to employment for persons with disabilities by giving them the opportunity to earn a living through a job chosen or offered in the regular labour market, in an open environment conducive to inclusion and accessibility. Furthermore, in August 2017, the Government adopted the regulatory section of the Labour Code of 2012 to reflect innovations for persons with disabilities. It remains possible for persons with disabilities to be recruited to the civil service without sitting a competitive exam, which has increased the number of graduates with disabilities directly recruited to the civil service from 200 in 2010 to 538 in 2019.

244. In the area of sports and leisure activities, the sports potential of persons with disabilities has been promoted since 2017 through inclusive participation in national games

(a traditional wrestling competition is held for persons with visual impairments), the African Games (in Abuja and Algiers), the Francophone Africa Games for Persons with Disabilities (in Ouagadougou, Nouakchott, Niamey and Yaoundé) and the Paralympic Games, including the Tokyo edition in 2021. Athletes from the Niger have also recently taken part in goalball and blind football tournaments in Abidjan and in regional volleyball, basketball and football championships.

#### *Rights of older persons*

245. Older persons are defined as all those aged 60 years and over. According to the National Institute of Statistics, the number of older persons in the Niger stood at 757,836 in 2012, 816,619 in 2016, 843,792 in 2017, 872,104 in 2018 and 902,576 in 2019. Population ageing has significant social, economic and cultural repercussions. As a result, older persons also suffer from poverty, which accentuates their vulnerability. The difficulties that they face are due essentially to the deficiency of social protection mechanisms, particularly health care.

246. A number of steps have been taken to support older persons. Such steps include the adoption of regulatory measures and the preparation of legislative measures, including the bill on the protection of older persons, which is pending adoption. With regard to the Madrid International Plan of Action on Ageing, the social protection of older persons is enshrined in article 25 of the Constitution of 25 November 2010. This article provides that the State must ensure that older persons are covered by a social protection policy. Through this policy, priority measures to improve older persons' living conditions were identified. These measures include:

- The strengthening of the free health-care programme through the health sector social fund
- The creation of the National Council for Older Persons through Order No. 029/MPO/SG/DL of 31 October 2016 setting out its composition and responsibilities
- The establishment of the National Committee for the Protection of Older Persons created by Order No. 17/MP/PF/PE/DGPE/PS/DPPA/PPH/DL of 13 March 2012 setting out its responsibilities, composition and working methods
- The institutionalization of a solidarity week, during which a number of visits to older persons' homes are organized to provide them with support and assistance
- The annual celebration on 1 October of the International Day of Older Persons
- The establishment of regional, departmental and district councils for the protection of older persons
- The establishment of a budget line for older persons
- The conduct of a study on the socioeconomic situation of older persons in the Niger in order to identify the needs of this target group
- The organization in Niamey, on 24 and 25 January 2019, of an international workshop bringing together States members of the Organization of Islamic Cooperation, with the aim of developing a plan of action for improving the well-being of older persons

247. The security situation in recent years, characterized by recurrent attacks by terrorist groups, has worsened the situation of already vulnerable populations and created other problems linked to the humanitarian care of displaced populations and refugees fleeing areas affected by insecurity. In this context, persons with disabilities and older persons are among the most vulnerable, suffer from discrimination and face social and economic inequalities. These factors limit their access to basic social services and prevent their full and effective participation in society.

#### *Rights of refugees and internally displaced persons*

248. As at 30 September, the Niger was hosting 253,071 refugees, 280,818 internally displaced persons, 3,306 asylum-seekers and 35,445 returnees. The exacerbation of violence in the areas bordering Nigeria, Mali and Burkina Faso, which are serious hotbeds of tension,

has led to increasing flows of refugees, most of whom are from those three countries, and internally displaced persons.

249. The Niger adopted Act No. 2018-74 of 10 December 2018 on protection and assistance for internally displaced persons in application of the Kampala Convention adopted by the African Union in 2009 and ratified by the Niger in 2012. The Niger is also a transit point for migrants heading to Europe. At a time when many States are implementing closed-door policies, the Niger, despite its security problems, economic difficulties and complex environment, has shown solidarity and generosity by keeping its borders open. The Niger was the first African country to facilitate the implementation of the Emergency Transit Mechanism, enabling 2,913 people to be evacuated from Libya and 1,905 people to be resettled.

250. Refugees have access to all basic social services in the camps. Fundamental human rights principles are respected in relation to their physical safety, freedom of movement, education and health, and in the provision of identity documents.

251. Transit and orientation centres for migrants and asylum-seekers have been set up with support from external partners. The National Commission on Eligibility for Refugee Status meets regularly. Its decisions may be challenged through administrative or judicial avenues.

252. With regard to the treatment of migrants and refugees, the Niger complies with the Geneva Conventions. Thus, in line with its tradition of hospitality and solidarity with all peoples, the Niger has welcomed in its various camps in the north, east and west of the country thousands of people of various nationalities, including Sudanese, Somalis, Eritreans, Malians and Nigerians, who have been turned away by other countries. These people are not subjected to any ill-treatment. Representatives of the Office of the United Nations High Commissioner for Refugees, the International Organization for Migration and the International Committee of the Red Cross regularly visit the camps.

253. The principle of non-refoulement is enshrined in article 11 of the Constitution and in Act No. 97-016 of June 1997 on refugee status, article 6 of which provides that applicants for refugee status and recognized refugees may not be expelled, returned or extradited from the Niger except for reasons of national security or public order. Article 6 (2) provides that no refugee may be expelled, returned or extradited to a territory where his or her life or freedom would be at risk on account of his or her race, religion, nationality, membership of a particular social group or political opinions.

#### *Rights of migrant workers*

254. The Niger, as a country of origin of migrant workers, has made progress in protecting the rights of its nationals working abroad. However, as a country of transit and destination, it faces a number of challenges in protecting the rights of migrant workers in its territory. The difficulties faced by the State include porous borders, terrorist attacks by various groups in several parts of its territory and crises in neighbouring countries that have led to the forced displacement of large numbers of people. Despite all these obstacles to the full realization of all the rights of migrant workers and members of their families, the Niger is making significant efforts and has a fairly substantial body of legislation in this regard.

255. Article 5 of Act No. 2012-45 of 25 September 2012 on the Labour Code provides as follows: "Except as otherwise expressly provided in the present Code, in any other legislative or regulatory text protecting women and children or in provisions relating to the status of foreigners, no employer may take a person's sex, age, national extraction, social origin, race, religion, colour, political or religious views, disability, HIV/AIDS or sickle cell anaemia status, trade union membership or non-membership or trade union activity into consideration in making decisions relating, in particular, to recruitment, the conduct and distribution of work, occupational training, advancement, promotion, remuneration, social benefits, disciplinary measures or termination of the employment contract."

256. Article 13 of Decree No. 87/076/PCMS/MI/MAE/C of 18 June 1987 regulating the conditions of entry and residence of foreigners in the Niger provides as follows: "Foreigners who come to the Niger to engage in a regulated occupation must also prove that they are in possession of an employment contract authorized and stamped by the competent services of

the ministry with responsibility for labour, or a permit issued by the said services, or a permit issued by the competent ministry, if they intend to engage in a different salaried occupation.”

257. Under article 48 of Act No. 2012-45 on the Labour Code:

“Any employment contract requiring workers to be based away from their usual place of residence must, after such workers have undergone a medical examination, be registered in writing with the public employment service of the place where such workers are hired or, failing that, with the labour inspector or his or her legal deputy.

In all cases, foreign workers’ employment contracts must be recorded in writing and stamped by the public employment service, after prior approval by the minister with responsibility for labour.

The public employment service charges a fee for stamping the employment contract.

The rates, terms of use and allocation of this fee to the public employment service.

Except as otherwise provided under regional, subregional or international conventions and treaties signed and ratified by the Niger in respect of the free movement of persons and/or reciprocity, such authorization must be obtained before any foreign worker enters the territory of the Niger.

The immigration authorities are obliged to require foreigners who are entering the Niger in order to engage in salaried employment to present a stamped employment contract.

Any employer who, as at the date of entry into force of the present Act, is using the services of foreign workers who have not obtained authorization from the public employment service must regularize their status without delay or incur the penalty provided for in article 353 of the present Code.

In any event, the use of foreign labour is contingent on the unavailability of the necessary skills at the national level, unless an exemption is expressly granted by the minister with responsibility for labour.”

258. Article 49 provides as follows:

“Before stamping the contract, the competent authority shall, in particular:

- (1) seek the opinion of the labour inspector of the place of employment on the working conditions agreed, where applicable;
- (2) verify the worker’s identity, the worker’s free consent and the conformity of the contract with the applicable labour provisions;
- (3) read out and, if necessary, translate the contract for the parties.”

259. Article 50 provides that:

“The employer is responsible for requesting the authorization. If the authorization provided for in the present article is denied, the employer may apply for reconsideration by the competent authority.

If, following such a request, the authorization is denied, the contract is automatically null and void.

The competent authority must specify the reasons for any decision to deny authorization.

The granting of the authorization entails an obligation for the employer to train a national of the Niger to take over from the foreign worker at the end of the authorization period set by regulation.

When authorization is granted, the public employment service shall require the employer to provide details in writing on the measures taken to train a national of the Niger to take over from the foreign worker.

If the failure to obtain authorization is attributable to the employer, the worker shall be entitled to have the contract declared null and void and to claim damages.

In all such cases, the cost of repatriation shall be borne by the employer.”

260. Article 51 adds that “if the authority competent to grant authorization has not communicated its decision within 30 days of the date on which the application was sent or deposited, such authorization shall be deemed to have been granted”.

261. Article 1 of Order No. 948/MFPT/E/MF/RE/P of 15 July 1998 setting the amount and terms for the payment of authorization fees for employment contracts provides as follows:

“Authorization fees for the employment contracts provided for in article 9 of Decree No. 96-418/PRN/MFP/T/E of 4 November 1996 are set at 20 per cent of the worker’s gross monthly remuneration.

The same amount shall be charged for the renewal of the employment contract authorization.”

262. Under article 353 of the Labour Code:

“Any employer who brings in or uses foreign workers in the Niger without ensuring that they have a contract approved by the relevant departments of the ministry with responsibility for labour shall be liable to a fine of between 500,000 and 1,000,000 francs.

The fine shall be applied each time foreign workers are unlawfully brought into or used in the territory of the Niger.

In the event of a repeat offence, the fine shall be between 2,000,000 and 5,000,000 francs.”

**(g) Acceptance of the jurisdiction of regional and international courts**

*Accepted jurisdictions*

263. The Niger has ratified several conventions establishing international and regional courts. It therefore accepts the jurisdiction of these regional and international courts. It is a party to the following:

- Treaty of 28 May 1975 establishing the Economic Community of West African States (ECOWAS) and creating, by its articles 5 and 15, the Court of Justice of the Community, with a mandate to ensure the interpretation and application of Community texts and the protection of human rights
- Treaty of 17 October 1993, revised in 2008, of the Organization for the Harmonization of Business Law in Africa (OHADA), bringing together 17 States and creating the Common Court of Justice and Arbitration, whose main purpose is to hear appeals against final rulings by national courts in commercial matters
- Treaty of 10 January 1994 establishing the West African Economic and Monetary Union (WAEMU) and creating the WAEMU Court of Justice, recognized by eight countries, whose purpose is to ensure compliance with the law in the interpretation and application of the WAEMU treaty
- Optional Protocol to the African Charter on Human and Peoples’ Rights, adopted on 10 June 1998 and establishing the African Court on Human and Peoples’ Rights, with jurisdiction to hear all cases and disputes concerning the interpretation and application of the African Charter on Human and Peoples’ Rights, the Protocol thereto and any other relevant human rights instrument ratified by the States concerned

264. At the international level, the Niger, as a Member of the United Nations, accepts the jurisdiction of the International Court of Justice, established by the Charter of the United Nations. It is also a party to the Rome Statute of the International Criminal Court.



*Examples of cases submitted to regional and international courts*

265. The Niger has been the subject of a number of decisions, some of which are worth mentioning by way of illustration. These include:

- WAEMU Court of Justice judgment (unnumbered) of 27 March 2002, *Moumouni Adamou Djermakoye v. Interparliamentary Committee of WAEMU*
- International Court of Justice judgment (unnumbered) of 12 July 2005, *Frontier Dispute (Benin/Niger)*
- ECOWAS Court of Justice judgment No. ECW/CCJ/JUD/06/08 of 27 October 2008, *Hadijatou Mani Koraou v. Niger*
- International Court of Justice judgment (unnumbered) of 16 April 2013, *Frontier Dispute (Burkina Faso/Niger)*
- ECOWAS Court of Justice judgment No. ECW/CCJ/JUD/03/15 of 23 April 2015, *Convention Démocratique et Sociale v. Niger*
- ECOWAS Court of Justice judgment No. ECW/CCJ/JUD/23/15 of 23 October 2015, *Heirs of Ibrahim Mainassara Baré v. Niger*
- ECOWAS Court of Justice judgment No. ECW/CCJ/JUD/04/15 of 23 April 2015, *Eli Haggarmi v. Niger*
- ECOWAS Court of Justice judgment No. ECW/CCJ/JUD/26/15 of 1 December 2015, *Moustapha Kakali v. Niger*
- ECOWAS Court of Justice judgment No. ECW/CCJ/JUD/09/16 of 17 May 2016, *Abdoulaye Koba v. Niger*
- ECOWAS Court of Justice judgment No. ECW/CCJ/JUD/31/19 of 30 October 2019, *Hama Amadou v. Niger*
- Judgment No. ECW/CCJ/JUD/19/21 of 24 June 2021, *Fodi Mohamed et al. v. Niger*
- Judgment No. ECW/CCJ/JUD/17/2021 of 22 June 2021, *Illia Malam Maman Saidat v. Niger*

## **C. Framework within which human rights are promoted at the national level**

### **1. National and regional parliaments and assemblies**

266. The National Assembly, made up of 171 deputies, plays a leading role in the promotion and protection of human rights, particularly those enshrined in international human rights instruments. From a legislative standpoint, one of the parliament's key roles is to establish legal frameworks and policy guidelines and to ensure that they comply with international and regional human rights standards. The parliament is also responsible for authorizing the ratification of international and regional human rights instruments signed by the executive branch, and for incorporating them once signed.

267. Any reservations to these instruments may be withdrawn only by vote of the parliament. It oversees the executive branch, in particular to ensure that the latter fulfils its role of respecting, protecting and promoting human rights. This is reflected in the numerous questions put to the Government, parliamentary fact-finding missions, the setting up of parliamentary human rights networks, recommendations to the Government and so on.

268. The parliament ensures compliance with the Paris Principles, so that the National Human Rights Commission can effectively promote and protect human rights. It also ensures the harmonization of legislation, regulations and practices with the international human rights instruments to which the Niger is a party. Finally, the parliament votes on the share of resources allocated to the various institutions responsible for promoting and protecting human rights and is the body to which the National Human Rights Commission submits its annual report on the situation of human rights in the country.

269. At the local level, regional and municipal councils, which are decision-making assemblies, also work to guarantee rights, particularly economic, social and cultural rights, which are the focus of numerous local programmes, projects and actions.

## **2. Mandate and composition of the national human rights institution (National Human Rights Commission)**

270. Act No. 2012-44 of 24 August 2012 on the composition, organization, responsibilities and working methods of the National Human Rights Commission stipulates that the latter is an independent administrative authority responsible both for protecting and defending human rights (art. 19) and for promoting those rights (art. 20). In accordance with the responsibilities defined in the Act, the Commission plays a dual role: promoting and protecting human rights by monitoring the observance of those rights, and improving the legal framework for human rights. It has been accredited with category A status by the Global Alliance of National Human Rights Institutions.

271. Under its mandate to protect the rights of citizens against arbitrary acts and abuses on the part of the authorities, the Commission deals with petitions concerning violations of the human rights recognized and guaranteed under the Constitution, international legal instruments and the laws and regulations in force. It investigates alleged human rights violations and proposes solutions or penalties.

272. In terms of protecting and defending human rights, the Commission is tasked with:

- Receiving complaints and conducting investigations into human rights violations
- Carrying out regular announced or unannounced visits to places of detention and making recommendations to the competent authorities
- Combating torture, acts of abuse and other cruel, inhuman or degrading treatment or punishment, in accordance with universal, regional and national human rights standards
- Combating rape and gender-based violence in the public and private spheres
- Providing or facilitating the provision of judicial assistance to victims of human rights violations, especially women, children, older persons, persons with disabilities and other vulnerable persons
- Informing the Government of all cases of human rights violations
- Combating slavery-like practices, the worst forms of child labour and similar practices

273. In terms of promoting human rights, the Commission is tasked with:

- Promoting human rights in general and the rights of women, children, persons with disabilities and other vulnerable persons in particular, through information, education and communication initiatives throughout the country
- Carrying out nationwide information and awareness-raising campaigns on human rights
- Contributing to the development and implementation of human rights education programmes
- Informing the public about national and international instruments for the promotion and protection of human rights
- Encouraging and contributing to the translation of national, regional and international instruments into national languages
- Helping to promote the principles of equality and non-discrimination as set out in the Constitution
- Conducting studies and research on human rights
- Providing the public authorities with opinions and recommendations on matters concerning human rights

- Raising individuals' awareness of their rights
- Raising awareness among State actors, particularly administrative authorities and senior members of the defence and security forces, regarding respect for individuals' rights
- Holding training seminars and workshops on human rights

274. The Commission is also tasked with:

- Submitting to the Government and the National Assembly, either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations and proposals on any matters concerning the promotion and protection of human rights, in particular bills and legislative proposals on human rights
- Contributing to the harmonization of national legislation, regulations and practices with the regional and international human rights instruments to which the Niger is a party, and ensuring their effective implementation
- Encouraging the competent State bodies to implement the international human rights conventions ratified by the Niger
- Ensuring the timely submission of reports by the competent State bodies to the United Nations treaty bodies, the Human Rights Council and regional human rights mechanisms, and contributing to the reports in a manner consistent with its independent status
- Maintaining cooperative relations with national human rights organizations at the regional and international levels and with regional and international organizations working on the promotion and protection of human rights

275. The Commission acts as the national mechanism for the prevention of torture and other cruel, inhuman or degrading treatment or punishment under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Article 21-1 of Act No. 2020-02 of 6 May 2020, amending Act No. 2012-44 of 24 August 2012 on the composition, organization, responsibilities and working methods of the National Human Rights Commission, specifies that the Commission is responsible for regularly examining the treatment of the persons deprived of their liberty in places of detention with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment.

276. The Commission comprises nine permanent members:

- One judge elected by his or her peers
- One lawyer elected by his or her peers
- One representative elected by human rights and democracy promotion organizations
- One female representative elected by women's rights organizations
- One representative of the trade unions
- One university lecturer or researcher in the social sciences
- Two representatives of the National Assembly
- One representative elected by farmers' organizations

277. The Commission enjoys financial independence, although its budget comes under the overall government budget. It also receives technical and financial support from several partners. In 2020, the coverage rate of the Commission's branches increased from 42.85 per cent to 71.42 per cent, with five regional branches established in Tillabéri, Agadez, Diffa, Dosso and Zinder and two focal points in Tahoua and Maradi. This has allowed the Commission to train 1,937 persons from different social backgrounds on various topics related to human rights and to follow up on and process more than 66 complaints.

### **3. Dissemination of human rights instruments**

278. The texts of the various human rights instruments to which the Niger is a party are published in the Official Gazette after ratification. Before such publication is authorized, a debate is held in the National Assembly, during which the provisions of these texts are brought to the attention of the representatives of the people and the general public.

279. Each ministerial department in charge of implementing the rights enshrined in international instruments regularly informs the public about them, in particular on the occasion of international days, commemorations of the anniversary of the Universal Declaration of Human Rights, workshops, radio and television broadcasts in national languages, and so on.

280. Also worth noting are the significant outreach activities carried out by civil society organizations active in the field of human rights protection and promotion.

### **4. Raising human rights awareness among public officials and other professionals**

281. Awareness-raising campaigns are regularly carried out by the State and NGOs, with the support of technical and financial partners, with the aim of bringing about a positive change in the behaviour of public officials and other legal professionals. Awareness-raising in all languages and/or using images or posters to increase visibility is now being used effectively to further the ideals of democracy, freedom, equality and peace. There are many programmes and projects aimed at raising the whole population's awareness of human rights.

282. The celebration of days or anniversaries dedicated to the Universal Declaration of Human Rights or to children, women, persons with disabilities and the press, among others, is an opportunity to engage with the public on respect for human rights. This awareness-raising is generally carried out through large-scale sports or recreational activities, sketches, plays, documentary film screenings, panel discussions and so on.

### **5. Human rights education and training**

283. Before the advent of democracy, the teaching of human rights was not included in school curricula, but was limited to isolated, piecemeal experiments in a few schools and vocational training centres. In the light of the profound changes that have taken place in society in the Niger and in line with the country's commitment to an irreversible democratization process, human rights education has become a necessity.

284. In order to meet its regional and international obligations, and also to give effect to the World Programme for Human Rights Education, the Government has established laws, programmes, policies and strategic plans to facilitate human rights education. In general, human rights training is included in the initial and ongoing training of State officials, including civil, military, judicial, medical and law enforcement personnel. Training is regularly provided to court officers, religious and traditional leaders, teachers, customs officers, social workers and others.

285. Since 2009, a formal human rights education process has been implemented in the Niger. As part of the "Improving access to justice and promoting human rights" programme agreed upon between the Government of the Niger and UNDP, an initiative to integrate human rights into training curricula has been launched. The aim of this initiative, as its name suggests, is to integrate human rights into training curricula at all levels. With this in mind, a workshop was organized in 2009 by the Ministry of Justice and the ministries in charge of education to define the training modules and education levels to be chosen for the curriculum reform. The process has continued with the development of a draft curriculum for human rights education in schools and training centres.

286. The teaching manuals of the ministries in charge of education have been adapted in line with these reforms. Human rights education is emerging as a discipline in its own right in the education systems of the Niger. With the support of UNDP and the Office of the United Nations High Commissioner for Human Rights (OHCHR), the ministries in charge of education and training have developed textbooks for human rights education and, following an experimental phase in Niamey, have been building the capacity of teachers. Concepts

relating to tolerance, a culture of peace and non-violence and the rights and duties of citizens are covered by the subprogramme on civic and moral education.

287. As part of the protection and promotion of human rights in prisons, several training courses were organized for prison medical staff and other prison officers, particularly in Kollo, Tahoua and Zinder. These training courses are part of the programme for improving and modernizing living and detention conditions. In addition, in 2006 and 2010 respectively, the Ministry of the Interior, with support from the Danish Institute for Human Rights and the Faculty of Economics and Law, produced a human rights training manual and guide for the National Guard.

288. Furthermore, the Government has embarked on a sweeping reform of the prison administration with a view to modernizing it and humanizing the living conditions of prisoners, in particular through the creation of a special corps of prison administration personnel with responsibility for guarding and managing prisons in place of the National Guard. One hundred thirty-two inspectors and monitors recruited by competitive examination are currently being trained at the Niger Judicial Training School, where their studies include human rights modules.

289. Under the partnership between the Ministry of Justice and the Danish Institute for Human Rights, a human rights training programme has been developed for the defence and security forces and for judges and prosecutors. To this end, a manual has been provided to trainers as a teaching aid.

290. The International Organization for Migration, the European Union Common Security and Defence Policy mission in the Niger and many other partners are building the capacity of the defence and security forces and of judges and prosecutors in terms of techniques for investigating offences such as trafficking in persons, smuggling of migrants, terrorism and transnational organized crime.

291. As part of its mission to protect and promote human rights, the National Human Rights Commission has organized several training courses for prison staff, other officials responsible for guarding inmates and civil society stakeholders throughout the country.

## **6. Promotion of human rights awareness through the mass media**

292. Article 158 of the Constitution provides that “State media are public services to which access is guaranteed, equitably and effectively, to all under the conditions defined by law. They have a duty to foster democratic debate and to promote fundamental human rights, national languages and sports and cultural products, national unity, tolerance and solidarity, peace and security between different communities, and the fight against all forms of discrimination ... Private media are public-interest services. As such, they are under the same obligations as State media”.

293. The public and private media also play a key role in the promotion of human rights awareness and the dissemination of information about human rights, including the relevant international instruments. Indeed, all workshops, seminars and symposiums are widely covered by the print, audiovisual and online media. Radio and television debates, awareness-raising programmes and reports on human rights are regularly produced for the general public. Furthermore, the press does not hesitate to denounce human rights violations and bring them to the attention of the relevant authorities.

294. Human rights awareness and education is supported through multiple networks of journalists who defend human rights, as well as human rights promotion and protection guides for journalists. The media landscape in the Niger has undergone a profound transformation, as described above (cf. para. 152).

## **7. Role of civil society, including non-governmental organizations**

295. It should be noted that NGOs and human rights associations are extensively involved in initiatives to promote and protect human rights. Human rights education is inclusive in the Niger, in the sense that the State collaborates with all national and international NGOs working in this field. The existence of numerous NGOs and associations has been encouraged by the legislation governing associations (Ordinance No. 84-06 of 1 March 1984, as amended

and supplemented by Act No. 91-06 of 20 May 1991 and Ordinance No. 96-19 of 19 May 1996).

296. The activities carried out by the various associations, supported and encouraged by the State and technical and financial partners, focus on awareness-raising, ensuring the effective enjoyment of rights, training and informing communities about human rights, popularizing legal instruments relating to human rights and participating in the implementation of related policies, projects and programmes.

297. A monitoring role is played by civil society, in particular human rights defenders. Once treaty body and universal periodic review recommendations have been adopted, civil society organizations work towards their implementation, sometimes going beyond their role of monitoring the Government by actively proposing strategies and becoming effectively involved in the follow-up to these recommendations. Thus, they systematically monitor the progress of implementation in order to improve the human rights situation on the ground.

298. Civil society organizations help to raise awareness by proactively engaging with the media, parliamentarians, diplomatic missions and United Nations agencies. The media are also involved through human rights training for journalists, the creation of networks of journalists who defend human rights, the mobilization of resources deployed to report on the human rights situation and the provision of up-to-date data to the media on the progress made in this regard.

299. Civil society organizations also lobby other States to ensure that they follow up on matters concerning their relations with the Niger and remind the Government that civil society and the international community are monitoring the human rights situation in the country. They also keep United Nations agencies informed of their actions to protect, defend and promote human rights, through NGO coalitions and by submitting shadow reports to treaty bodies and the universal periodic review mechanism.

## 8. Budget allocations and trends

300. Generally speaking, despite the many challenges it has been facing for several years, the Government has not lost sight of its obligation to ensure the population's enjoyment of human rights. The budgetary provisions allocated to the various ministries and institutions in charge of human rights have undergone significant changes. By way of illustration, the following tables provide an overview.

Table 9  
Ministry of Justice budget trends

<i>Year</i>	<i>National budget in billions of CFA francs</i>	<i>Ministry of Justice budget in billions of CFA francs</i>	<i>Percentage share</i>
2006	456.95	3.52	0.77
2007	498.43	4.03	0.82
2008	572.87	6.26	1.09
2009	761.08	5.43	0.71
2010	712.10	6.64	0.73
2011	961.41	6.97	0.73
2012	1 262.77	19.53	1.55
2013	1 331.24	9.26	0.70
2014	1 867.56	15.22	0.81
2015	1 785.87	10.07	0.56
2016	1 807.21	14.13	0.78
2017	1 910.10	13.48	0.70
2018	1 971.97	11.53	0.58
2019	2 157.31	10.05	0.46
2020	2 236.15	14.04	0.62

<i>Year</i>	<i>National budget in billions of CFA francs</i>	<i>Ministry of Justice budget in billions of CFA francs</i>	<i>Percentage share</i>
2021	2 644.54	13.02	0.49
2022 (planned)	2 888.80	19.24	0.66

*Source:* Financial Resources Directorate/Ministry of Justice.

### Budget trends for key ministries

*Budget trends by subsector, 2015–2019, in billions of CFA francs*

<i>Ministry</i>	<i>Final Accounts Act 2015</i>	<i>Final Accounts Act 2016</i>	<i>Final Accounts Act 2017</i>	<i>Final Accounts Act 2018</i>	<i>Budget Reconciliation Act 2019</i>
Ministry of Primary Education, Literacy, Promotion of National Languages and Civic Education	147.2	140.6	133.9	130.8	136.9
Ministry of Secondary Education	37.9	35.3	50.9	52	52.9
Ministry of Vocational and Technical Education	24.1	19.2	15.7	28.7	35.2
Ministry of Youth and Sports	3.9	2.7	1.9	2	3.1
Ministry of Cultural Renaissance, the Arts and Social Modernization	2.4	1.4	1.6	1.6	1.9
Ministry of Higher Education, Research and Innovation	68.3	58.4	48.1	52.4	50.8
<b>Education sector</b>	<b>283.8</b>	<b>257.6</b>	<b>252.1</b>	<b>267.5</b>	<b>280.8</b>
	<i>Final Accounts Act 2015</i>	<i>Final Accounts Act 2016</i>	<i>Final Accounts Act 2017</i>	<i>Final Accounts Act 2018</i>	<i>Final Accounts Act 2019</i>
Budget allocated	147.2	140.6	133.9	130.8	136.9
Budget spent	132.9	124.3	118.3	103.8	131.3
<b>Expenditure rate</b>	<b>90.30%</b>	<b>88.40%</b>	<b>88.30%</b>	<b>79.40%</b>	<b>95.90%</b>
Budget allocated	37.9	35.3	50.9	52	52.9
Budget spent	38	48.8	52.4	40.9	55.2
<b>Expenditure rate</b>	<b>100.20%</b>	<b>138.10%</b>	<b>102.90%</b>	<b>78.70%</b>	<b>104.30%</b>
Budget allocated	24.1	19.2	15.7	28.7	35.2
Budget spent	11.4	9.5	13.6	27.2	20
<b>Expenditure rate</b>	<b>47.00%</b>	<b>49.60%</b>	<b>86.60%</b>	<b>94.80%</b>	<b>56.80%</b>
Budget allocated	3.9	2.7	1.9	2	3.1
Budget spent	3.9	2.7	2.1	1.3	1.7
<b>Expenditure rate</b>	<b>99.20%</b>	<b>103.50%</b>	<b>110.50%</b>	<b>67.50%</b>	<b>54.60%</b>
Budget allocated	2.4	1.4	1.6	1.6	1.9
Budget spent	1.6	0.9	0.9	0.7	1.5
<b>Expenditure rate</b>	<b>66.80%</b>	<b>60.90%</b>	<b>60.30%</b>	<b>43.50%</b>	<b>82.00%</b>

*Budget trends by subsector, 2015–2019, in billions of CFA francs*

Budget allocated	68.3	58.4	48.1	52.4	50.8
Budget spent	64.9	45.1	44.8	45.2	45.4
<b>Expenditure rate</b>	<b>95.10%</b>	<b>77.20%</b>	<b>93.30%</b>	<b>86.30%</b>	<b>89.30%</b>

## 9. Development cooperation and assistance

301. The State benefits from development cooperation and assistance that supports human rights promotion, including budgetary allocations, from a number of international organizations, friendly countries and national and international NGOs. Among the most active are the United Nations Children’s Fund (UNICEF), UNDP, OHCHR, the United Nations Population Fund (UNFPA), the Food and Agriculture Organization of the United Nations (FAO), the International Organization of la Francophonie, the European Union and the Danish Institute for Human Rights.

302. The factors or difficulties of a general nature affecting or impeding the implementation of international human rights obligations at the national level are linked mainly to the security challenges that the Niger has been facing for many years, and to the sociocultural constraints that impede the adoption of certain reforms.

## D. Reporting process at the national level

### 1. National coordinating structure for reporting under treaties

303. As part of the preparation and submission of reports to treaty bodies, in 2010 the Government set up an interministerial committee to draft its reports to the treaty bodies and the universal periodic review mechanism. Before that date, reports had been drafted by consultants. The tasks of this committee were set out by Order No. 0013/MJ/DH/DDH/AS of 17 March 2010, replaced by Order No. 0024/MJ/GS/SG of 21 February 2017 on the responsibilities, organization and working methods of the Interministerial Committee Responsible for Drafting Reports for Submission to the Treaty Bodies and the Universal Periodic Review Mechanism. Under Decree No. 2016-382/PRN/MJ of 22 July 2016 on the organization of the Ministry of Justice, the Committee was attached to the office of the Minister of Justice and provided with a permanent secretariat.

304. The Committee is made up of 18 members representing the sectoral ministerial departments involved in the fulfilment of human rights, in addition to the National Institute of Statistics. It may call upon any person to provide expertise and has the following responsibilities, among others:

- Preparation and drafting of the report submitted to the universal periodic review mechanism
- Preparation and drafting of initial and periodic reports submitted to regional and international treaty bodies
- Follow-up on the implementation of the recommendations arising from the submission of the various initial and periodic reports
- Drafting of national action plans to implement recommendations on human rights issues

### 2. Participation of departments, institutions and officials

305. In addition to its own members, the Interministerial Committee may call upon any administrative department or public authority at either the national or the decentralized level to assist in the collection of data. Seminars, workshops and field visits are conducted in the regions to collect, share and verify information for the reports.



### **3. Common core document and report drafting phases prior to submission to treaty bodies**

306. The process of drafting the common core document and the various initial and periodic reports begins with a guidance and scoping workshop intended solely for members of the Interministerial Committee, the aim of which is to familiarize them with the document or instrument concerned and to train them on the general and specific guidelines for the report's preparation and the drafting schedule to be followed.

307. This preliminary phase is followed by data collection by all Committee members, in accordance with the distribution of tasks agreed at the end of the guidance and scoping workshop. Each member carries out desk research in his or her field and conducts interviews with the public and private structures and bodies concerned. The Committee's permanent secretariat is responsible for compiling the contributions received from each member, and at the end of the process draws up a draft report which is then submitted to a validation workshop. In addition to the members of the Committee, this validation workshop brings together the various public stakeholders, including ministerial departments that are not members of the Committee, civil society organizations active in the field of human rights (NGOs, trade unions, associations, etc.), national and international technical and financial partners and the National Human Rights Commission.

308. The purpose of the validation workshop is to review and amend the draft report to ensure that it accurately reflects the situation and to share it with all stakeholders. At the end of the workshop, the draft report, incorporating the participants' observations, proposals and amendments, is finalized before being transmitted by the Minister of Justice to the Secretariat General of the Government for adoption by decree of the President of the Republic in the Council of Ministers. It should be noted that the text is discussed extensively in the Cabinet, then in the Council of Ministers, before adoption.

### **4. Nature of the participation of entities outside government or relevant independent bodies**

309. At all stages of the reporting and follow-up process, the National Human Rights Commission, NGOs (particularly those submitting shadow reports), trade unions, the defence and security forces and all other structures or institutions involved in the promotion, defence and protection of human rights are involved. The same participants are also involved in the follow-up to the implementation of recommendations and concluding observations and in the dissemination, translation or publication of the recommendations and observations or of the relevant instruments.

### **5. Cooperation with treaty bodies and the universal periodic review mechanism**

310. The Government of the Niger has been able to make up for the delay in submitting its initial and periodic reports. It is therefore up to date in meeting its international commitments to promote and protect human rights. Since 2015, the Government of the Niger has submitted the following reports:

- (i) Combined eighth to thirteenth periodic reports on the implementation of the African Charter on Human and Peoples' Rights, submitted to the African Commission on Human and Peoples' Rights at its fifty-sixth ordinary session, held in Banjul from 21 April to 7 May 2015;
- (ii) Combined fifteenth to twenty-first periodic reports on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, presented in Geneva on 6 and 7 August 2015 during the eighty-seventh session of the Committee on the Elimination of Racial Discrimination;
- (iii) Initial report on the implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, presented in Geneva on 30 and 31 August 2016 during the twenty-fifth session of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families;

- (iv) National report submitted for the second cycle of the universal periodic review, presented in Geneva on 18 January 2016 during the twenty-fourth session of the Human Rights Council Working Group on the Universal Periodic Review;
- (v) Combined third and fourth periodic reports on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women, presented in Geneva on 13 July 2017 during the sixty-seventh session of the Committee on the Elimination of Discrimination against Women;
- (vi) Fourteenth periodic report on the implementation of the African Charter on Human and Peoples' Rights, presented on 7 November 2017 during the sixty-first session of the African Commission on Human and Peoples' Rights, held in Banjul;
- (vii) Initial report on measures taken to give effect to the provisions of the International Covenant on Economic, Social and Cultural Rights, presented on 13 and 14 March 2018 during the sixty-third session of the Committee on Economic, Social and Cultural Rights;
- (viii) Second periodic report on the implementation of the African Charter on the Rights and Welfare of the Child, presented on 27 April 2018 during the thirty-first session of the African Committee of Experts on the Rights and Welfare of the Child, held in Bamako;
- (ix) Combined third to fifth periodic reports on the implementation of the provisions of the Convention on the Rights of the Child and its Optional Protocol on the sale of children, child prostitution and child pornography, presented on 24 and 25 September 2018 before the Committee on the Rights of the Child during its seventy-ninth session, held in Geneva;
- (x) Second periodic report on measures taken to give effect to the provisions of the International Covenant on Civil and Political Rights, presented in Geneva on 6 and 7 March 2019 during the 125th session of the Human Rights Committee;
- (xi) Initial report on measures taken to give effect to the provisions of the Convention on the Rights of Persons with Disabilities, presented in Geneva on 12 and 13 March 2019 during the twenty-first session of the Committee on the Rights of Persons with Disabilities;
- (xii) Initial report on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, presented in Geneva on 26 and 27 November 2019 during the sixty-eighth session of the Committee against Torture;
- (xiii) Combined twenty-second to twenty-fifth periodic reports on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, submitted in January 2018 and not yet presented;
- (xiv) Initial report on the implementation of the International Convention for the Protection of All Persons from Enforced Disappearance, submitted in August 2019 and not yet presented;
- (xv) Fifteenth periodic report on the implementation of the African Charter on Human and Peoples' Rights, presented on 21 and 23 April 2021 during the sixty-eighth session of the African Commission on Human and Peoples' Rights;
- (xvi) National report submitted for the third cycle of the universal periodic review, presented in Geneva in May and September 2021;
- (xvii) Interim report on follow-up to the priority recommendations of the Committee on Economic, Social and Cultural Rights, in July 2021;
- (xviii) Interim report on follow-up to the priority recommendations of the Committee on the Elimination of Discrimination against Women, in July 2021;
- (xix) Interim report on follow-up to the priority recommendations of the Committee against Torture, in November 2021;

(xx) Interim report on follow-up to the priority recommendations of the Human Rights Committee, in November 2021;

(xxi) Common core document, updated in November 2021.

### **III. Information on non-discrimination and equality and effective remedies**

#### **A. Non-discrimination and equality**

311. As a State party to almost all regional and international legal instruments for the protection and promotion of human rights, the Niger has reaffirmed its commitment to the principle of the rule of law in its Constitution of 25 November 2010. Article 8 provides as follows:

“The Republic of the Niger is governed by the rule of law.

It shall guarantee equality before the law for everyone without distinction as to sex or social, racial, ethnic or religious origin.

It shall respect and protect all beliefs. No adherents of a particular religion or belief may claim political power or interfere in the affairs of the State.”

312. Article 117 states:

“Justice is administered throughout the country on behalf of the people and in strict compliance with the rule of law and the rights and freedoms of every citizen.

Court decisions are binding on public authorities and citizens alike. They may be challenged only through the procedures and in the manner prescribed by law.”

313. Article 118 stipulates that: “In the performance of their duties, judges and prosecutors are independent and subject only to the authority of the law.”

314. Although the Niger does not yet have specific legislation on racial discrimination, multiple texts prohibit and punish discrimination in all its forms.

#### **1. Constitution**

315. The Constitution, which is the supreme law of the State, to which all other laws must conform and which all citizens of the Niger are obliged to respect in all circumstances, contains several provisions on the prohibition of discrimination, namely:

Article 4: “National sovereignty belongs to the people. No sector of the population, community, corporation, party or political association, trade union organization or individual may arrogate the exercise of that sovereignty.

In the exercise of State power, the personalization of power, regionalism, ethnocentrism, discrimination, nepotism, sexism, tribalism, feudalism, slavery in any form ... are punishable by law.”

Article 5: “All communities comprising the nation of the Niger shall be free to use their languages while respecting the languages of others.

These languages shall have the status of national languages, on an equal basis with one another.

The State shall ensure the promotion and development of the national languages. Measures for their promotion and development shall be established by law.”

Article 8: “The Republic of the Niger is governed by the rule of law.

It shall guarantee equality before the law for everyone without distinction as to sex or social, racial, ethnic or religious origin.

It shall respect and protect all beliefs. No adherents of a particular religion or belief may claim political power or interfere in the affairs of the State.

All particularist propaganda of a regionalist, racial or ethnic nature and any expression of racial, social, gender, ethnic, political or religious discrimination shall be punishable by law.”

Article 22: “The State shall ensure the elimination of all forms of discrimination against women, girls and persons with disabilities. Public policies in all areas shall ensure their full development and participation in national development.”

Article 33: “The State recognizes the right of all citizens to work and shall endeavour to create conditions that are conducive to the enjoyment of this right and will guarantee to the worker fair remuneration for his or her services or production.

No one shall be discriminated against in the workplace.”

Article 158: “State media are public services to which access is guaranteed, equitably and effectively, to all under the conditions defined by law.

They have a duty to foster democratic debate and to promote fundamental human rights, national languages and sports and cultural products, national unity, tolerance and solidarity, peace and security between different communities, and the fight against all forms of discrimination.”

## 2. Criminal Code

316. The Criminal Code contains provisions on the prohibition and punishment of discrimination:

Article 102: “Any act of racial or ethnic discrimination, any regionalist propaganda or any infringement of freedom of conscience or freedom of worship that is likely to set people against one another is punishable by 1 to 5 years’ imprisonment and restricted residence.”

Article 208.1: “‘Genocide’ means the commission or the fact of causing the commission of any of the following acts in execution of a concerted plan with intent to destroy, in whole or in part, a national, ethnic, racial or religious group or a group defined on the basis of any other arbitrary criterion:

- Wilful killing
- Causing bodily or mental harm
- Inflicting on the group conditions of life calculated to bring about its destruction in whole or in part
- Imposing measures intended to prevent births
- Forcibly transferring children.”

Article 208.2: “‘Crimes against humanity’ means the commission against any civilian population group, on political, philosophical, racial or religious grounds and in execution of a concerted plan, of deportation, enslavement or the widespread and systematic practice of summary executions, abductions followed by disappearance, torture or inhumane acts.”

## 3. Electoral Code

317. The Electoral Code was established by Organic Act No. 2017-64 of 14 August 2017, as amended by Act No. 2019-38 of 18 July 2019:

Article 6: “... foreigners who have become nationals of the Niger by marriage or naturalization are also eligible to vote.

However, a foreigner who has become a national of the Niger by marriage may not, for a period of five years, assume public functions or elective office for which only nationals of the Niger are eligible.

For a period of 10 years from the date of the naturalization decree, a foreigner who has become a national of the Niger may not assume public functions or elective office for which only nationals of the Niger are eligible.”

#### 4. Political Parties Charter

318. Ordinance No. 2010-84 of 16 December 2010 on the Political Parties Charter contains provisions prohibiting discrimination in various forms:

Art. 57: “No political party or group of political parties shall be permitted to found its organization and actions on, and/or pursue objectives involving:

- Sectarianism, nepotism, communitarianism and fanaticism
- Exclusive membership of a particular faith, language group or region
- Being of the same sex, ethnic group or occupational status

Speech and invective reflecting regionalist, ethnic, gender or religious bias shall also be prohibited and punishable under the provisions of the Criminal Code.”

Art. 58: “Any political party that violates the prohibitions and obligations set out in the present Political Parties Charter shall incur the sanctions and penalties laid down in articles 60 to 69 below.”

#### 5. Law governing associations

319. Ordinance No. 84-06 of 1 March 1984, as amended and supplemented by Act No. 91-006 of 20 May 1991 and Ordinance No. 96-19 of 19 May 1996, governs associations in the Niger. It prohibits the creation of certain types of associations. Under the terms of article 2, second paragraph:

“Associations of a regional or ethnic nature are prohibited. An association of a regional nature is defined as:

- Any association whose purpose is to maintain, in one part of the Republic of the Niger, the particularities of another region, another ethnic group or residual attitudes of racial origin
- Any association of citizens of the Niger from a particular department, urban district, town, rural district, canton, grouping, village or tribe of the Niger residing in another department, urban district, town, grouping, village or tribe of the Niger.”

#### 6. Nationality Code

320. Article 13 (new) of Ordinance No. 84-33 of 23 August 1984 on the Nationality Code, as amended by Act No. 2014-60 of 5 November 2014, provides that nationality of the Niger may be acquired by marriage to a man or woman who is a national of the Niger, by decree, under the following conditions:

- Proof that the persons in question have been legally married for at least three years at the time of application
- Proof of uninterrupted affective and material cohabitation since the marriage
- Proof that the spouse has not lost his or her nationality
- Habitual and legal residence in the Niger for at least three years
- Good character and conduct
- No involvement in crime, terrorism, drug trafficking or any other form of trafficking prohibited by law or morality
- Proof of sufficient means of subsistence
- Full integration into society in the Niger

321. However, a foreigner who has become a national of the Niger by marriage may not, for a period of five years, assume public functions or elective office for which only nationals of the Niger are eligible.

A foreigner may not become a national of the Niger if the marriage is declared null and void by a decision issued by a court of the Niger or rendered enforceable in the Niger, even if the marriage was contracted in good faith in the Niger.

However, where the validity of acts concluded prior to the judicial decision declaring the marriage null and void was subject to the foreigner's becoming a national of the Niger, such validity may not be challenged on the grounds that he or she was unable to acquire such status.

322. Nationality of the Niger may not be granted:

- To a person convicted of a crime or offence constituting an attack on the fundamental interests of the nation or an act of terrorism
- To a person sentenced to at least six months' non-suspended imprisonment, regardless of the offence

#### **7. Act No. 98-12 of 1 June 1998 setting out the aims of the education system**

323. Having laid down, in article 2, the principle that all citizens of the Niger have the right to education, the Act, in article 8, prohibits discrimination in the field of education, as follows: "Everyone has the right to education, without distinction as to age, sex or social, racial, ethnic or religious origin."

#### **8. Labour Code**

324. Act No. 2012-45 of 25 September 2012 on the Labour Code of the Republic of the Niger provides, in article 5, that "no employer may take a person's sex, age, national extraction, social origin, race, religion, colour, political or religious views, disability, HIV/AIDS or sickle cell anaemia status, trade union membership or non-membership or trade union activity into consideration in making decisions relating, in particular, to recruitment, the conduct and distribution of work, occupational training, advancement, promotion, remuneration, social benefits, disciplinary measures or termination of the employment contract".

#### **9. Ordinance No. 2010-035 of 4 June 2010 on freedom of the press**

325. Article 52, second paragraph, stipulates that "defamation committed by any means of communication against any of the groups of persons referred to in the preceding article who also belong by birth to a particular ethnic group, region or religion shall, when committed for the purpose of inciting hatred between citizens or inhabitants, be punishable by a fine of 100,000 to 500,000 CFA francs".

#### **10. Act No. 2017-008 of 31 March 2017 setting out the fundamental principles of the prison system**

326. Article 7 provides that:

"Every prisoner is subject to the rules that uniformly govern prisoners in the category to which he or she belongs. In accordance with their merits and aptitudes, prisoners have an equal right to benefit from the advantages offered by the administration of the facility in which they are held.

There shall be no difference in the treatment of prisoners on the grounds of race, colour, sex, language, religion, political opinion, national or social origin, property, birth or any other status.

However, the principle of non-discrimination shall not prevent the special needs of children, women, persons with disabilities and the sick from being taken into account in the treatment of prisoners."

**11. Act No. 2019-50 of 30 October 2019 setting out consumer protection offences and penalties**

327. Article 4 provides that:

“A fine of between 100,000 and 5,000,000 CFA francs shall be imposed on any natural or legal person engaged in commercial activities who is guilty of the following offences:

- Refusal to sell without valid reason
- Discrimination at the point of sale
- Tie-in sales
- Unregulated sales
- Unsolicited postal sales
- Pyramid sales schemes and the practice of recruiting members.”

**12. Act No. 2015-24 of 11 May 2015 setting out the fundamental principles of consumer protection in the Republic of the Niger**

328. Article 6 provides that: “To defend the interests of consumers, the State shall draw up a policy for protecting consumer health that covers food products, water and pharmaceuticals.”

**13. Civil Code**

329. Article 11 of the Civil Code provides that “foreigners in the Niger shall enjoy the same civil rights as those that are or may be accorded to citizens of the Niger by the treaties of the countries from which such foreigners originate”. Articles 14 and 15 provide that a foreigner may be brought before the courts of the Niger for the enforcement of obligations contracted by him or her in the Niger or in foreign countries towards a citizen of the Niger, and that a citizen of the Niger may be brought before a court of the Niger in respect of obligations contracted by him or her in a foreign country, including those contracted with a foreigner.

**14. Act No. 2007-08 of 30 April 2007 on the prevention, treatment and control of HIV**

330. Under articles 29 and 45, any act of discrimination against HIV-positive people and their family members is prohibited, and perpetrators are liable to prison sentences and fines.

**B. Effective remedies**

331. This issue has been covered extensively in paragraphs 203 to 217 above.

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