
NIGER

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2010

Political context

The announcement made on May 5, 2009 by President Mamadou Tandja of his intention to call a referendum to permit him to extend his term of office by three years, contrary to the provisions of the Constitution and when his term of office was due to end on December 22, 2009, was largely damaging to the process of setting up the democratic institutions provided for by the Constitution of the 5th Republic, promulgated on August 9, 1999 after several years of political instability. Based on supposedly spontaneous popular demonstrations calling for his re-election¹, Mr. Mamadou Tandja did all he could to organise the referendum: the National Assembly was dissolved on May 26, 2009; the Constitutional Court was dismissed on June 29, 2009²; and he granted himself exceptional powers on June 26, 2009³. All these measures were denounced and strongly condemned by civil society and the political opposition, despite the repression to which they were subject. On July 8, 2009, President Tandja also modified Law 2006-24 on the Organisation, Attribution and Function of the Higher Council for Communication (*Conseil supérieur de la communication* – CSC), granting the CSC Chairman discretionary powers to suspend any “organ of the press that broadcasts or publishes information likely to disturb public order or to harm the safety of the State”.

In spite of the condemnations and threats of sanctions expressed by the international community, in particular the African Union, the European Union⁴, the Economic Community of West African States (ECOWAS)⁵

1/ The demonstrations of support referred to by the President to justify his intention to modify the Constitution to permit him to seek a third term of office were in reality just demonstrations organised by the authorities that were given broad media coverage on national radio and TV.

2/ On May 25, 2009, after being petitioned by a group of Members of Parliament, the Constitutional Court had issued a favourable opinion on the possibility of holding a referendum on the adoption of a new constitution. Following the signature, on June 5, 2009, of Decree No. 2009-178/PRN/MI/SP/D calling the electorate to a referendum on the Constitution of the 6th Republic, several political opposition groups seized the Constitutional Court with a remedy for ultra vires. The Court issued a ruling that the decree of June 12, 2009 was unconstitutional.

3/ In application of Article 53 of the Constitution.

4/ On July 11, 2009, the EU decided to block the transfer of budgetary aid for Niger to put pressure on President Tandja to suspend the referendum.

5/ In a Resolution on September 22, 2009, the ECOWAS Parliament condemned the referendum organised in Niger.

and also the International Organisation of the Francophonie (*Organisation internationale de la Francophonie*)⁶, the referendum on reform of the Constitution was organised on August 4, 2009. Boycotted by the opposition, the “yes” vote accounted for nearly 90% of the poll according to official sources. On August 18, 2009, a new constitution was promulgated, establishing the principle of an unlimited number of possible presidential mandates, increasing the current presidential mandate by three years as from December 22, 2009, and moving from a semi-presidential to a full presidential regime.

There has been an increase in the obstacles to fundamental freedoms since the constitutional reform. Statements, interviews, statements and other press briefings in opposition to the referendum were regularly censored by the national press. The private media that published these opinions were subject to judicial or administrative harassment. Additionally, all applications by the opposition parties to demonstrate were systematically banned, and demonstrations organised in spite of the bans led to acts of repression against members of the opposition. During the month of August 2009, several demonstrations that aimed to denounce the reform of the Constitution were brutally repressed by the forces of order, leading to numerous arrests. On August 23, 2009 for example, a demonstration organised by the opposition parties in the streets of Niamey led to the arrest and detention of 157 people, both in Niamey and the rest of the country. All these people were subsequently released. On August 30, 2009, violent clashes broke out between the forces of order and former parliamentary deputies who were on their way to Parliament in order to take their seats again in protest against the dissolution of the National Assembly; several people were injured.

The parliamentary elections organised on October 20, 2009, which were boycotted by the opposition, saw the overwhelming victory of the ruling party, the National Movement for the Society of Development (*Mouvement national pour la société de développement – MNSD*)⁷. They were denounced by national and international NGOs and the international community and, on October 21, 2009, ECOWAS, which had called for the

6/ See Statement of the Secretary General of the International Organisation of the Francophonie on July 1, 2009 and the Resolution of the 73rd session of the OIF Permanent Council, July 10, 2009.

7/ MNSD obtained 76 of the 113 seats in Parliament, according to the Independent Electoral Commission. The opposition boycott permitted MNSD to increase its seats, since it only held 47 in the previous Parliament, which was dissolved by President Mamadou Tandja because of its opposition to him remaining in power beyond the end of his term of office in December 2009. Despite the accusations of massive fraud made by the opposition and the international community, the Constitutional Court validated these results at its hearing on November 10, 2009.

elections to be postponed, suspended its bodies from its bodies since it did not recognise the election results and accused Niamey of having violated community texts on democracy. On December 22, 2009, ECOWAS also took note “of the [sanction] on December 22, 2009 of the legal end of the mandate” of President Mamadou Tandja⁸. Similarly, on November 6, 2009, the EU suspended its development aid to Niger and gave the Niamey authorities a delay of one month to begin “consultations” with a view to returning to “constitutional order”. On December 23, 2009, the American administration also suspended its non-humanitarian aid to Niger and imposed restrictions on the movements of several Government officials to sanction the refusal of President Mamadou Tandja to renounce his mandate. In spite of the opposition boycott and the disapproval expressed by the international community, municipal elections were also held on December 27, 2009.

With regard to the conflict in the region of Agadez, in the north of the country, on October 23, 2009, a decree was promulgated for a general amnesty for all acts resulting from the armed rebellion. Amongst other things, this marked the end of proceedings against the journalist Mr. Moussa Kaka, a correspondent with *Radio France internationale* and Director of the *Radio Saraouniy* private radio station, who had become a symbol of media muzzling after he was detained from September 20, 2007 to October 6, 2008⁹ and accused of “complicity in a conspiracy against State authority” for having had regular contact, as part of his professional activity, with the rebel Tuareg faction of the Nigerien Justice Movement (*Movement des Nigériens pour la justice – MNJ*). The “state of alert”¹⁰, decreed on August 24, 2007 by President Tandja after MNJ began the armed rebellion¹¹ and which gave full power to the army in the Agadez region, was lifted on November 26, 2009, since the rebel movement seemed to have gone quiet following the constitutional reform. NGOs have restarted their activities in the region since then.

8/ See ECOWAS Press Release, December 22, 2009.

9/ The Prosecution Chamber of the Niamey Appeal Court had indeed decided to requalify the charges against him to “actions liable to harm national defence”, no longer a crime, but an offence liable to five years in prison and a heavy fine.

10/ This measure is provided for in the Constitution of Niger and is an exceptional measure to restrict individual and collective freedoms.

11/ MNJ calls for respect for the 1995 agreements signed by the Government, improved distribution of wealth, especially the income from uranium, and measures to support families displaced due to the exploitation of the uranium deposits.

Harassment of defenders who denounce the reform of the constitution

In 2009, human rights defenders and NGOs that criticised the concentration of power in the hands of the executive were seriously hindered in their work, with obstacles placed in particular on their freedom to protest. As an example, the Niger Civil Society Collective (*Collectif des organisations de la société civile* – CSCN) was on 16 occasions refused permission to organise or to convene peaceful marches calling for respect for the rule of law¹². On June 29, 2009, Mr. Marou Amadou, President of the United Front for the Protection of Democracy (Front uni pour la sauvegarde des acquis démocratiques – FUSAD)¹³, the Independent Advisory and Orientation Committee for the Defence of Democratic Gains (*Comité de réflexion et d'orientation indépendant pour la sauvegarde des acquis démocratiques* – CROISADE), a member of the national board of the Network of Organisations for Transparency and Budget Analysis – Publish What You Pay (*Réseau des organisations pour la transparence et l'analyse budgétaire – Publiez ce que vous payez* – ROTAB PCQVP) and a civil society representative on the Independent National Election Committee (*Commission électorale nationale indépendante* – CENI), was arrested by the Niger police in Niamey. On June 30, he was accused of “inciting the defence and security forces to disobey”, “conspiracy against State authority” and “undertaking to demoralise the army” under Articles 76, 78 and 79 of the Criminal Code – crimes which are liable for capital punishment – as well as “flagrant press offences” (Article 48 of the Regulation on Freedom of the Press¹⁴. On July 2, 2009, Mr. Marou Amadou was released, but proceedings against him were still ongoing. However, he was arrested again on August 10, 2009 by the judicial police for “offence against the security of the State” after, in his capacity as President of FUSAD, he had read a statement on the tenth anniversary of the 5th Constitution of Niger on August 9, which in particular denounced the corrupt regime of President Tandja and the referendum on August 4, 2009 and recalled that the ruling of the Constitutional Court on June 12, 2009 had declared the referendum to be illegal. On August 11, 2009, Mr. Amadou was discharged

12/ See Niger Human Rights Defence Association (*Association nigérienne pour la défense des droits de l'Homme* - ANDDH).

13/ FUSAD is a network of civil society organisations established to preserve democratic structures in the context of Niger's political crisis.

14/ These accusations came after Mr. Amadou spoke during a programme broadcast on the Dounia television channel on June 29, when he referred to a statement by the Front for the Defence of Democracy (*Front de défense de la démocratie* - FDD) calling on the army to respect Article 13 of Niger's Constitution, which stipulates that “nobody shall be permitted to carry out any apparently illegal order”. Furthermore, on June 30, 2009, the radio and TV group *Dounia* was closed by order of the CSC President for having broadcast “a statement calling for an insurrection by the defence and security forces”, following Mr. Amadou's TV appearance. On July 2, 2009, the Summary Magistrate annulled the suspension of the *Dounia* group and ordered the immediate resumption of its activities.

by the Niamey High Criminal Court (*Tribunal de grande instance "hors classe"* – TGI). While several members of Nigerien civil society ad met in front of the Niamey civil prison were waiting for the formalities for Mr. Amadou's release to be completed, two vehicles belonging to the National Intervention and Security Forces (*Forces nationales d'intervention et de sécurité*) took him away and drove him back to Niamey civil prison at around 9 pm. Mr. Amadou was then charged with the "creation and/or administration of a non-declared association", as FUSAD did not have legal identity, a crime that carries a one year prison sentence. On September 1, 2009, the Public Ministry appealed against the ruling, provisionally releasing Mr. Marou Amadou. On September 15, 2009, the Niamey Appeal Court Prosecution Chamber confirmed the application for provisional release granted by the Senior Magistrate on September 1, 2009 and which had been blocked by the Niamey Court since that date¹⁵. In addition, on August 22, 2009, Mr. **Wada Maman**, Secretary General of the Nigerien Association for the Fight against Corruption (*Association nigérienne de lutte contre la corruption* – ANLC), an active member of ROTAB PCQVP and Secretary General of FUSAD, was arrested in Niamey by members of the Republican guard and taken to the Niamey police camp, without having access to a lawyer; he was accused of taking part in the illegal demonstration that had been organised on the same day by the opposition parties to denounce the amendments to the Constitution, despite Mr. Maman asserting that he had not taken part in this demonstration. At the end of the day of August 26, Mr. Maman was granted a provisional release. However, proceedings against him continued for "participation in an unauthorised demonstration" and "destruction of a bridge, public monuments and an administrative vehicle". At the end of 2009, the case of Mr. Wada Maman remained pending at the office of the Senior Examining Magistrate of the Niamey High Criminal Court.

Repression of journalists who denounce corruption

In 2009, journalists who denounced Government corruption were subject to harassment. As an example, on August 1, 2009, the police arrested and questioned the directors of eight private weekly publications, Messrs. **Abdoulaye Tiemogo**, of *Canard déchainé*, **Ali Soumana**, of *Courrier*, **Assane Sadou**, of *Démocrate*, **Ibrahim Souley**, of *l'Enquêteur*, **Moussa Askar**, of *l'Événement*, **Zakari Alzouma**, of *l'Opinion*, **Omar Lalo Keita**, of *Républicain* and **Abarad Moudour Zakara**, of *l'Actualité*, for implicating the son of President Tandja in a case of corruption relating to the

15/ On January 25, 2010, the Niamey Appeal Court sentenced Mr. Marou Amadou to a suspended three months' prison sentence for "regionalist propaganda". The lawyers introduced an appeal against this ruling before the Supreme Court.

signing of a mining contract. They were all released without charge on the same day, except for Mr. Ali Soumana, who was released at a later date to wait for his trial, which had still not taken place as of the end of 2009, and Mr. Abdoulaye Tiemogo, who was kept in custody for four days at the Niamey central police station. On August 18, 2009, the Niamey High Criminal Court sentenced Mr. Tiemogo to three months in prison for “throwing discredit on a jurisdictional act” after he had appeared on July 30, 2009 on the *Dounia* TV channel and commented on the Prosecutor’s decision to issue an international arrest warrant against former Prime Minister Hama Amadou, who lives abroad and is accused of corruption¹⁶. On August 31, 2009, the journalist, who appealed against the decision, was forcibly transferred despite his poor state of health to the prison in Ouallam, 100 km to the north of Niamey. On October 26, the Niamey Appeal Court decided to reduce the sentence of Mr. Abdoulaye Tiemogo to two months in prison, at the same time confirming the charge. Since he had already spent 86 days in detention, he was released on the same day¹⁷. On September 20, 2009, Mr. **Ibrahim Soumana Gaoh**, Editor-in-chief of the independent weekly *Le Témoin*, was arrested by the police and charged with “defamation” on September 22, 2009 after the publication of an article announcing that the former Communications Minister, Mr. Mohamed Ben Omar, was the target of a criminal investigation for corruption, following the findings of a parliamentary commission of enquiry in 2008 that revealed the misappropriation of more than two billion CFA francs (around 3.12 million euros) by the Nigerien Telecommunications Company (*Société nigérienne des télécommunications* – SONITEL), leading to the arrest of several of its directors. Arrested after a complaint was filed by Mr. Mohamed Ben Omar, he was finally released on September 30, 2009 after the latter withdrew his complaint¹⁸.

Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Marou Amadou	Arbitrary detention / Judicial harassment / Closure of premises	Urgent Appeal NER 001/0709/OBS 095	July 1, 2009
	Provisional release	Urgent Appeal NER 001/0709/OBS 095.1	July 2, 2009
	Arbitrary arrest	Urgent Appeal NER 001/0709/OBS 095.2	August 10, 2009

16/ See ANDDH.

17/ *Idem*.

18/ *Idem*.

Names	Violations / Follow-up	Reference	Date of Issuance
	Arbitrary detention	Urgent Appeal NER 001/0709/OBS 095.3	August 10, 2009
	Discharged / Enforced disappearance	Urgent Appeal NER 001/0709/OBS 095.4	August 11, 2009
	Arbitrary detention / Judicial harassment	Urgent Appeal NER 001/0709/OBS 095.5	August 12, 2009
		Urgent Appeal NER 001/0709/OBS 095.6	September 15, 2009
	Provisional release / Judicial harassment	Urgent Appeal NER 001/0709/OBS 095.7	September 16, 2009
Mr. Wada Maman	Arbitrary detention / Provisional release / Judicial harassment	Urgent Appeal NER 002/0809/OBS 128	August 27, 2009