



**International Convention on the
Protection of the Rights of
All Migrant Workers and
Members of Their Families**

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**Committee on the Protection of the Rights of All
Migrant Workers and Members of Their Families**

**Consideration of reports submitted by States
parties under article 73 of the Convention under
the simplified reporting procedure**

Initial reports of States parties due in 2010

The Niger*

[Date received: 25 July 2016]

* The present document is being issued without formal editing.

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Introduction

1. This report is submitted under article 73 (1) of the Convention on the Protection of All Migrant Workers and Members of Their Families, to which the Niger acceded on 18 March 2009.
2. The Niger has not submitted a report since its accession. This can be explained by the lack of a body specifically responsible for drafting reports to treaty bodies. To rectify this, an interministerial committee has been set up to draft, submit and present initial and periodic reports to treaty and universal periodic review (UPR) bodies and to deal with the backlog.
3. When this Committee was established in 2010, the Niger resumed dialogue with treaty bodies, in particular through the presentation of reports to the first and second universal periodic review cycles, the report on the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the combined periodic report (2003–2014) on implementation of the African Charter on Human and Peoples' Rights and the submission of five reports to treaty bodies.* In 2010 it also updated the Common Core Document and set a timetable for the drafting of reports on other conventions.
4. Although it has not submitted a report to the Committee for the Protection of the Rights of all Migrant Workers and Members of Their Families, since acceding to the Convention, the Niger has introduced several measures to guarantee the promotion and protection of the rights and freedoms it enshrines.
5. The production of the present initial report testifies to the determination of the State of the Niger to fulfil its obligations under the Convention.
6. The approach taken by this report was essentially for the members of the interministerial committee responsible for drafting reports to treaty bodies and universal period review bodies to gather data and information from state institutions, certain international bodies and civil society organizations. The Commission Nationale des Droits de l'homme (National Human Rights Commission) and civil society organizations were first officially consulted at the data-gathering stage; they then took part in the workshop to finalize and approve the report held in Dosso on 14 and 15 July 2016.
7. The report is in two parts: the first contains general information on the Niger, while the second replies to the list of issues drawn up by the Committee.

* The five reports submitted to the treaty bodies are: the reports on implementation of: the Convention on the Rights of the Child, and the Protocol thereto on the sale of children, child prostitution and child pornography; the Convention on the Rights of Persons with Disabilities; the Convention on the Elimination of all Forms of Discrimination against Women; and the International Covenant on Civil and Political Rights.

Part One

General information about the Niger

A. Background information

1. Geographic features

8. The Niger is a landlocked country situated in the eastern part of West Africa in the Saharan zone and has an area of 1,267,000 km². The Saharan zone accounts for two thirds of its territory. The Niger is bordered to the north by Algeria and Libya, to the south by Nigeria and Benin, to the east by Chad and to the west by Mali, and Burkina Faso. It stands at the crossroads of the sub-Saharan and North African States.

9. Because of this geographic location and the immensity of its borders, the Niger is a country of origin, transit and destination of migrants.

2. Demographic, social and cultural characteristics

10. The population of the Niger was estimated at 17,129,076 by the 2012 General Population and Housing Census. Children under 18 account for 56 per cent of the population, which is 80 per cent rural. Life expectancy at birth is 58.4 years.

11. The Niger has a cosmopolitan population composed of nine ethnic groups — Hausa, Djerma, Touareg, Fula, Arab, Kanuri, Toubou, Gurma and Buduma — that live together in harmony. The population is unequally distributed over the eight regions of the country. The largest region, Agadez, occupies 53 per cent of national territory but only 2.8 per cent of the total population live there, while 37 per cent live in the smallest region, Niamey.

3. The economy

12. The Niger has significant natural resources, including uranium, coal, iron, gold, phosphate and petroleum. It has been an oil producer (some 20,000 barrels per day) and exporter since November 2012, while the exploitation of a fourth uranium mine at Imouraren will make the country the world's second largest producer.

13. The Human Development Index ranks the Niger among the poorest countries in the world, with nominal GDP per capita of \$937.7 in 2014, when it ranked 187/187.

4. Constitutional, political and legal structure

14. The Niger became independent on 3 August 1960. It began the process of democratization in 1991, when it held a national conference that opted for a full multiparty system. Several parties and civic movements then appeared, and the way was open to adversarial democratic debate that led to the emergence of national consensus on the formation of a transition government in 1991. Headed by Mr. Amadou Cheffou, this Government held elections after which the institutions of the Third Republic were established in April 1993. The Alliance of the Forces of Change (AFC) came to power and Mr. Mahamane Ousmane was elected President.

15. A change of Government resulting from the break-up of the Alliance resulted in paralysis at the top and this led the Army, headed by the National Salvation Council chaired by Colonel Ibrahim Baré Maïnassara, to take power in January 1996.

16. In July 1996, Colonel Ibrahim Baré Maïnassara held presidential elections that brought him to power under the Fourth Republic, but he encountered resistance from the democratic forces, which had grouped together in the Front for the Restoration and Defence of Democracy.
17. In a context of very great social and economic tensions, Major Daouda Malam Wanké led a coup d'état under the banner of the National Reconciliation Council, which put in place a transition government with the task of returning the country to democracy. The Constitution of the Fifth Republic was adopted in July 1999, introducing a semi-presidential system.
18. The legislative and presidential elections held in 1999 brought to power the candidate of the National Movement for the Development Society, Mr. Mamadou Tandja, supported by a coalition of political parties grouped together in the Alliance of Democratic and Republican Forces.
19. In 2004, President Mamadou Tandja was re-elected for a further five-year term, while the National Assembly elections resulted in a majority favourable to him.
20. A motion of no-confidence on 31 May 2007 toppled the Government led by Mr. Hama Amadou, who was replaced by Mr. Seyni Oumarou.
21. On 4 August 2009, President Mamadou Tandja held a referendum on changing the Constitution, notwithstanding the opinion and then the judgment handed down by the Constitutional Court to the effect that the undertaking was unlawful. The holding of the contested referendum resulted in a military coup on 18 February 2010. It was led by the Supreme Council for the Restoration of Democracy headed by Major Salou Djibo, who appointed a civilian Prime Minister, Mr. Mahamadou Danda, who coordinated the work of the transitional Government.
22. From 18 February 2010 to 6 April 2011, it was the institutions that resulted from the coup, i.e. the Supreme Council and the transitional Government, that exercised executive power under Order No. 2010-011 of 22 February 2010 organizing the public authorities during the transition.
23. The military junta in power was committed to respecting democratic principles and the rule of law, and this commitment was embodied in the putting in place of the transitional Government, the National Observatory for Human Rights and Fundamental Freedoms, the National Communications Observatory, the Constitutional Court, the Audit Court, the State Court and the National Consultative Council, which was the ad hoc transitional legislative body.
24. The political transition was above all marked by the establishment of the Independent National Electoral Commission, which between 31 October 2010 and 12 March 2011 held six ballots: the constitutional referendum of 31 October 2010; municipal and regional elections on 11 January 2011; legislative elections and the first round of the presidential election on 31 January 2011; and the second round of the presidential election on 12 March 2011.
25. These elections were recognized as free and transparent by national and international observers and by the political players, and Mr. Mahamadou Isoufou was elected President of the Niger. He appointed Mr. Brigi Rafini to the post of Prime Minister, who presented his General Policy Statement to the National Assembly on 16 June 2011.
26. In 2016, the Niger held legislative and presidential elections, at which the President was re-elected for a second five-year term and a majority favourable to him was elected to the National Assembly.

27. All the institutions provided for in the Constitution of 25 November 2010 and the other laws of the Republic have been put in place.

28. The constitutional structure is outlined below.

The executive

29. The President: he is the guarantor of national independence, national unity, territorial integrity, respect of the Constitution and international treaties and agreements, the lawful operation of the public authorities and the continuity of the State.

30. The Government: it is led and managed by a Prime Minister, who is Head of Government and coordinates government action.

The legislature

31. Legislative power is exercised by a single chamber called the National Assembly, the members of which are known as national deputies. The National Assembly passes legislation, approves taxation, and oversees government action.

The judiciary

32. The judiciary is independent of the legislative and executive branches in the Niger. Judicial power is exercised by the Constitutional Court, the Court of Cassation, the State Council, the Audit Court, and the various lower courts. The constitutional judicial bodies are:

- The Constitutional Court has jurisdiction over constitutional and electoral matters. It rules on the constitutionality of laws and orders, and as to whether treaties and international agreements are compatible with the Constitution. It rules on all questions concerning the interpretation and application of the Constitution.
- The Court of Cassation is the highest court for judicial matters.
- The State Council is the highest administrative court. It is the first and last instance court for cases of abuse of power by administrative authorities, and hears appeals on interpretation and assessment of the legality of administrative texts.
- The Audit Court: the highest court for the supervision of public finances. It has judicial, supervisory and consultative functions. It oversees the accounts of the State, local authorities, public establishments and enterprises, independent administrative authorities and all other bodies that enjoy the financial support of the State and these subsidiary bodies.
- The High Court of Justice is an offshoot of the National Assembly and tries members of the Government accused of crimes or offences committed in the performance of their duties, and the President for acts of high treason committed in the performance of his.
- The courts recognize two sources of law: positive law and custom. In matters concerning personal status, i.e. marriage, divorce and inheritance, the courts tend to apply customary law. Nonetheless, under article 99 of the Constitution, “the law shall specify rules on the procedure under which customs shall be noted and brought into line with the fundamental principles of the Constitution”.

Other institutions and bodies

33. These include:

- The National Human Rights Commission, established by Act No. 2012-44 of 24 August 2012, is an independent administrative authority responsible for ensuring the promotion and effectiveness of the rights and freedoms enshrined in the Constitution. It complies with the Paris Principles.
- The Supreme Media Council, established by Act No. 2012-34 of 7 June 2012 on the composition, responsibilities, organization and functioning of the Supreme Communications Council, is an independent administrative authority responsible for ensuring and guaranteeing the freedom and independence of the broadcast media and the printed and digital press, respecting the law.
- The Ombudsman, established by Act No. 2011-18 of 8 August 2011, is an independent authority that receives, in conditions established in law, complaints about the functioning of government departments, local authorities, public establishments and any other body with a public service mission, in their relations with citizens. The Act was amended and supplemented by Act No. 2013-30 of 17 June 2013.
- The Economic, Social and Cultural Council, established by Act No. 2011-40 of 7 December 2011, setting out the responsibilities, composition, organization and functioning of the Economic Social and Cultural Council, assists the President and the National Assembly in the economic, social and cultural fields. It gives opinion on government and private members' Bills in those areas, with the exception of finance Bills.
- The National Coordinating Commission against Trafficking in Persons, established by Decree No. 2012-082/PRN/MJ of 21 March 2012, is the body that instigates, devises and draws up policies and programmes on preventing trafficking in persons.
- The National Agency to Combat Trafficking in Persons, established by Decree No. 2012-083/PRN/MJ of 21 March 2012, is the operational and implementing body for the national policies and strategies adopted by the Coordinating Commission, and implements the action plan concerning it.
- The National Legal and Judicial Assistance Agency, established by Act No. 2011-42 of 14 December 2011, setting out the rules applicable to legal and judicial assistance and establishing a public administrative institution called the National Legal and Judicial Assistance Agency, is responsible for making judicial and legal assistance available to certain categories of vulnerable persons and those who do not have the necessary income to pay the costs of a trial.
- The High Authority for Peace, established by Decree No. 2014-117/PRN of 17 February 2014, on the responsibilities, organization and functioning of the High Authority for Peace, is responsible for cultivating a spirit of peace and dialogue among the different communities of the country and maintaining a spirit of mutual trust, tolerance and respect in a shared wish to live together.
- The High Commission for the 3N Initiative (Nigeriens Nourish Nigeriens), established by Decree No. 2011-407/PRN of 6 September 2011, is intended to enable the Niger to make a qualitative leap from the point of view of investment in the rural development sector and the related sectors of agrifood and trade in local agricultural, woodland and pastoral products.

- The Supreme Authority to Combat Corruption and Similar Offences, established by Decree No. 2011-215/PRN/MJ of 26 July 2011, is responsible for: supervising and evaluating the government anti-corruption programme; gathering, centralizing and acting upon reports of corrupt practices, deeds and acts and similar offences; conducting all studies and investigations; suggesting legal, administrative and practical measures to prevent and put a stop to corruption; identifying the causes of corruption; suggesting to the competent authorities measures to eliminate corruption in all public and quasi-public services; and carrying out any other mission entrusted to it by the President.
- The traditional chieftaincy: regulated by Order No. 93-28 of 30 March 1993 on the status of the chieftaincy as amended by Act No. 2008-22 of 23 June 2008, the new article 15 of which stipulates: “the traditional chief shall have powers to act as conciliator between the parties in customary, civil and commercial matters. He shall regulate according to custom the use by families and individuals of agricultural and pasture land over which the customary community for which he is responsible has recognized customary rights. He shall in all cases draw up minutes of successful and unsuccessful conciliation procedures, which shall be placed in an ad hoc register and a copy sent to the administrative authority and the competent court. The conciliation minutes signed by the parties may be endorsed by a writ of execution by the competent court at the initiative of one of the parties”.

Suffrage

34. Suffrage is universal, free, equal and secret. Under the Constitution, male and female Niger nationals who are aged 18 on the day of the vote or emancipated minors and in possession of their civil and political rights may vote under conditions determined by law. Male and female nationals of the Niger who have been nationals since birth, are aged at least 35 on the day of submission of notice to stand, and in possession of their civil and political rights, are eligible to stand for the Presidency. Male and female nationals of the Niger who are aged at least 21 and in possession of their civil and political rights are eligible to stand for election to the National Assembly.

Freedom of association

35. In the context 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 and groupings of associations may form and conduct their activities freely, provided they comply with the laws and regulations in force. Under Order No. 84-06 governing associations: any association shall, prior to undertaking its activities, be declared and authorized.

B. General framework for the promotion and protection of human rights

1. Acceptance of international and regional human rights standards

36. Based on the recognition and promotion of the universal values of human rights, the Niger has signed the international and regional legal instruments listed below.

At the international level

- The International Convention on the Elimination of All Forms of Racial Discrimination, adopted on 21 December 1965, ratified by the Niger on 27 April 1967;

- The International Covenant on Civil and Political Rights, adopted on 16 December 1966, acceded to by the Niger on 7 March 1986;
- The International Covenant on Economic, Social and Cultural Rights, adopted on 16 December 1966, acceded to by the Niger on 7 March 1986;
- The Convention on the Elimination of All Forms of Discrimination against Women, adopted on 18 December 1979, acceded to by the Niger on 8 October 1999;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 20 December 1984, ratified on 5 October 1986;
- The Convention of the Rights of the Child, adopted in November 1989, ratified on 30 September 1990;
- The Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, ratified on 24 June 2008;
- The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, adopted in June 2000, ratified on 13 March 2012;
- 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 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, adopted in November 2000, ratified on 30 September 2004;
- The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, acceded to by the Niger on 1 December 1964;
- The International Labour Organization (ILO) Worst Forms of Child Labour Convention, 1999 (No. 182), ratified on 4 August 2000;
- The Convention on the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, adopted in December 1949, ratified on 10 June 1977;
- The Convention for the Suppression of the Traffic in Women of Full Age, adopted in October 1933, accepted on 25 August 1961;
- The ILO Equal Remuneration Convention, 1951 (No. 100), ratified in 1966;
- The Slavery Convention, adopted in Geneva in September 1926, acceded to by the Niger on 25 August 1961;
- The Protocol amending the Slavery Convention, adopted in 1953, accepted on 7 December 1964;
- The Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices similar to Slavery, adopted in April 1956, ratified on 22 July 1962;
- The four Geneva Conventions on International Humanitarian Law, acceded to by the Niger on 16 August 1964;
- The Convention on the Political Rights of Women, adopted in March 1953, acceded to by the Niger on 7 December 1964;
- The ILO Forced Labour Convention, 1930 (No. 29), ratified on 23 March 1962;

- The International Convention against the Taking of Hostages, adopted in December 1979, ratified on 17 December 2003;
- The Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live, adopted in December 1985, ratified on 27 January 2009;
- The Convention against Discrimination in Education, adopted on 14 December 1960, acceded to by the Niger on 16 July 1968;
- The International Convention against Apartheid in Sports, adopted in December 1985, ratified on 2 September 1986;
- The International Convention on the Suppression and Punishment of the Crime of Apartheid, adopted in November 1973, ratified on 28 June 1978;
- The ILO Right to Organize 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 Minimum Age Convention, 1973 (No. 138), ratified on 4 December 1978;
- The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention), signed on 23 October 2009 and ratified on 10 May 2012;
- The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified on 7 November 2014;
- The International Convention for the Protection of All Persons from Enforced Disappearance, ratified on 24 July 2015.

37. The Niger has ratified the Convention on the Elimination of All Forms of Discrimination against Women but entered reservations on five articles (2, 5, 15, 16 and 29). These reservations mainly concern:

- Taking appropriate measures to modify or abolish existing laws and practices that constitute discrimination against women, particularly regarding inheritance;
- Modifying the social and cultural patterns of conduct of men and women;
- The right of women to choose their residence and domicile, except single women;
- The right of women to have the same rights and responsibilities during marriage and at its dissolution, the same rights to decide freely and responsibly on the number and spacing of their children, and the right to choose a family name.

38. The Niger is a strongly Muslim country in which sociocultural constraints persist, and a great deal of effort is required to change attitudes. Awareness campaigns are regularly conducted for this purpose to enable the reservations to be removed.

At the regional level

- The African Charter on Human and People's Rights, adopted on 27 June 1981, ratified on 21 July 1986;
- The African Charter on the Rights and Welfare of the Child, adopted in July 1990, ratified on 11 December 1999;

- The Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa, adopted in September 1969, ratified on 21 September 1971;
- The OAU Convention for the Elimination of Mercenarism in Africa, adopted in 1977, ratified on 19 June 1980;
- The African Charter on Democracy, Elections and Governance, signed on 17 June 2008.

39. In addition to acceding to the various legal instruments listed, the Niger has taken legislative and regulatory measures to implement the State's commitments on human rights.

2. National legal framework for the protection of human rights

40. The Preamble to the Constitution affirms the commitment of the Niger 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 People's 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, subject to each agreement or treaty being applied by the other party".

41. The State ensures that international human rights instruments are incorporated in domestic law either through the adoption of new laws or the amendment of existing laws.

3. National institutional framework for the protection of human rights

Judicial mechanisms

42. In the Niger, justice is administered by district courts (30), regional courts (10), appeal courts (2), the State Council, the Court of Cassation, the Audit Court and the Constitutional Court. Citizens who are victims of human rights violations may bring cases before the courts and appeal against verdicts.

43. Alongside these ordinary courts, there are special courts. There are ten employment tribunals, ten juvenile courts, ten commercial courts, ten rural land courts, and ten administrative courts. These courts sit in the regional and/or district courts.

44. In 2014, a total of 382 judges sat in the various courts.

45. To ensure the right to a defence, 116 advocates, 15 trainees and six group legal practices were registered in 2015. The State has introduced a system of court-appointed lawyers (volunteers appointed by the Minister of Justice) to defend people who cannot afford the services of a lawyer.

Other mechanisms

46. There are other domestic bodies responsible for promoting and protecting human rights, including:

- The Directorate-General of Human Rights, Juvenile Judicial Protection and Social Action is responsible, among other things, for: monitoring and implementing national justice and human rights policy; coordinating activities for drafting national reports to treaty bodies; ensuring effective application of international, regional and national legal instruments on human rights; and implementing legal and judicial

assistance. It also works to prevent human rights violations through information, education, awareness-raising, investigations, laying down legal frameworks, and coordinating the activities of public and civil society players.

- The Directorate-General of Prison Administration and Security, and Reintegration is responsible essentially for: monitoring the human rights situation in prisons; drafting and applying prison regulations; devising risk prevention strategies and programmes for prisons; devising and implementing reintegration programmes, including policies on training and access to employment for prisoners. It also trains prison staff and manages prisons, ensuring that matters concerning prisoners' food and health and other rights recognized by the Decree on the prison system are respected.
- The Directorate-General of Child Protection, Social Promotion and Humanitarian Action is responsible for devising and implementing policies, strategies, plans and programmes on child protection, social protection and humanitarian action. It oversees application of the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities and the African Charter on the Rights and Welfare of the Child.
- The Directorate-General for the Advancement of Women and Gender is responsible for ensuring that national policy on the advancement of women and gender is put into effect, and mainstreaming gender policy in development plans and programmes. It also oversees implementation of the Convention on the Elimination of All Forms of Discrimination Against Women.
- The Police Service: in 2011, a central service for the protection of minors and women was established. It includes a secretariat, a protection of minors division, a protection of women division, a documentation division, an investigations division, and special squads for the protection of minors and women at the regional, departmental and municipal levels and in special police stations and border police posts. These police services receive and deal with complaints by minors who are victims, and cases in which minors have committed criminal offences. This task is performed by the Juveniles Squad, whose tasks include: screening for and diagnosing early signs of delinquency in children in street situations and/or who are separated from their family; recording and prosecuting all forms of aggression against and cruelty to children committed within or outside the family, sexual exploitation, rape, paedophile acts or child pornography, corrupting a minor and indoctrination; the prosecution of all criminal offences committed by or upon juveniles; and supervising the placement of juveniles at risk in specialized public or private child protection institutions.
- Civil Protection: the civil protection services ensure the protection of persons, property and the environment from the risks of harm resulting from man-made or natural disasters and in circumstances that are a matter for civil defence. They study and devise civil security measures on a national scale. They organize and coordinate emergency measures and implement the humanitarian measures necessary for the protection of people in times of crisis or war.
- The Niger National Guard: in addition to protecting public buildings, it is responsible for: maintaining and re-establishing public order; operational defence of national territory, people and their property; and the administration, management and guarding of prisons. Following reform of the National Guard, it is now empowered to receive complaints from victims of rights violations in the most remote areas of the Niger.

- Court social services and municipal social services: court social services conduct investigations into morality at the request of judges managing cases before the courts. The municipal social services conduct investigations into morality for child custody purposes and advocate for inclusive local development for people with disabilities.

47. The provisions of human rights instruments may be relied upon before the courts and the administrative authorities.

Access to justice

48. Access to justice is free and without charge. The National Legal and Judicial Assistance Agency has been established to manage legal and judicial assistance, to make it available to certain vulnerable categories of people and to those who do not have the necessary income to pay the costs of a trial. It contributes to the development and implementation of national policy on legal and judicial assistance and coordinates all the related activities. It is also responsible for ensuring a framework for consultation among the various players and for mobilizing financial, material and human resources.

49. Difficulties remain, however, because of the distance between the judicial services and the public, and the immensity and isolation of some rural areas that are difficult to reach, especially in the rainy season.

Regional authorities recognized by the country

50. The Niger recognizes the jurisdiction of the Economic Community of West African States (ECOWAS) Community Court of Justice. For example, on 14 September 2007, Hadijatou Mani Koraou, a citizen of the Niger, brought a case before it alleging violation of his rights (slavery) by the Republic of the Niger. At the end of the trial the Court found in the young woman's favour and ordered the State of the Niger to pay her the sum of 10 million CFA francs (CFAF) in compensation for the harm she had suffered. The judgement was executed. It is important to note that citizens often take cases to this court.

C. National framework for the protection of human rights

Parliament and national and regional decision-making authorities

51. Parliamentarians contribute to the promotion of human rights by facilitating the ratification of international treaties and overseeing government action through interventions and oral questions on alleged human rights violations. They conduct parliamentary enquiries to verify the cases of violation brought to their attention, and act as mediators.

52. Parliamentary information, training and awareness-raising days are organized to strengthen parliamentarians' capacities.

53. After the 2010 coup d'état, the National Human Rights and Fundamental Freedoms Commission was dissolved and replaced by the National Observatory for Human Rights and Fundamental Freedoms, which in its turn was replaced by the National Human Rights Commission. Provided for by article 44 of the Constitution, the National Human Rights Commission oversees the promotion and effectiveness of rights and freedoms. It is an independent administrative authority established in accordance with the Paris Principles. The law stipulates that it will submit an annual human rights report to the National Assembly.

Dissemination of human rights instruments

54. In the last few years, the following educational and awareness-raising activities have been carried out:

- Training for staff in all ministries on the human-rights-based approach and the treaty bodies;
- Training for the defence and security forces on human rights;
- Activities conducted in the framework of marking 16 days of activism (from 25 November to 10 December each year) on women's rights, an initiative of the consultation framework that brings together the State, civil society and technical and financial partners;
- The justice caravan, consisting of communicators and lawyers who take part in awareness-raising activities on women's rights and the rights of the child through court open days, debates and film screenings;
- Dissemination of the Universal Declaration of Human Rights on International Human Rights Day;
- Providing schools with 6,000 copies of the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities.

Role of civil society, including non-governmental organizations

55. The State is aware that civil society plays an important role in promoting and protecting human rights and has therefore taken several measures to facilitate, not only the founding of associations, NGOs and unions, but also their action. Under article 8 of Order No. 84-06 of 1 March 1984 on the status of associations, associations of natural person may be formed in the Niger by free consent, subject to declaration and authorization, and have legal capacity. In 2015, there were 2,202 registered organization, 1,557 NGOs, 13 trade union confederations and a coordinating body for non-affiliated unions bringing together more than 250 unions.

56. In addition, to foster high quality political and public participation, the Niger has developed several dialogue and social consultation mechanisms, in particular by setting up the National Political Dialogue Council and the National Social Dialogue Commission and involving civil society players in national institutions. In 2014, there were 79 political parties.

57. Regarding the empowerment of women, the country organized an international craft fair for women with a view to developing the autonomy of Niger women.

58. In order to promote the child's right to free time, the Niger organizes an annual artistic and cultural integration festival, "Sukabe or child", that brings together children from the subregion.

Development cooperation and assistance

59. In the development field, the Niger enjoys the support of technical and financial partners present in the country. These include, United Nations bodies such as the United Nations Development Programme (UNDP), the United Nations Children's Fund (UNICEF), the World Health Organization (WHO), the Office of the United Nations High Commissioner for Refugees (UNHCR), and the United Nations Population Fund (UNFPA), which are involved in every field, including health, education, the environment and human rights education.

D. Preparation of reports to treaty bodies

60. In 2010, the Niger established an interministerial committee to draft and submit reports to treaty bodies and for the Universal Periodic Review.

61. The responsibilities of this 25-member committee are set out in article 3 of Order No. 0013/MJ/DH/DDH/AS of 17 March 2010. The Order is in the process of being replaced by a decree with a view to giving the committee a permanent secretariat and the necessary resources for its work.

62. Regarding cooperation with the treaty bodies, the Niger continues its efforts to deal with the backlog of reports it needs to submit. Thus, in April 2015, it presented its combined periodic report (2004–2014) on implementation of the African Charter on Human and People’s Rights to the African Commission.

63. In August 2015, the Niger presented the report on implementation of the Convention on the Elimination of All Forms of Racial Discrimination to the relevant Committee in Geneva. It also submitted to the treaty bodies the reports on the Convention on the Rights of Persons with Disabilities, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child and the report on the Protocol thereto on the sale of children, child prostitution and child pornography. In 2016, the Niger submitted its report on the International Covenant on Civil and Political Rights, and the updated Common Core Document.

64. The interministerial committee has adopted a participatory approach to all these reports by involving the various stakeholders in drafting them and approving them at a national workshop.

Information on non-discrimination, equality and effective remedy

Non-discrimination and equality

65. The Niger is a party to almost all international and regional human rights legal instruments, and asserts its commitment to the principle of the rule of law in its Constitution, article 8 of which reads: “The Republic of the Niger is governed by the rule of law and guarantees everyone equality before the law regardless of sex or social, racial, ethnic or religious origin. It respects and protects all beliefs. No proponents of a particular religion or belief may claim political power or interfere in the affairs of State.”

66. Article 117 states that, “justice shall be administered in the national territory in the name of the people in strict respect of the rule of law and of the rights and freedoms of every citizen. Everyone is bound by judicial decisions, the authorities and citizens alike. They may be challenged only through the means and in the manner provided for by law”. Article 118 stipulates that “in the conduct of their duties judges are independent and subject only to the authority of the law”.

67. Persons who believe their rights have been violated may go before the courts to obtain a remedy. If they are not satisfied, they may lodge an appeal in the manner provided for in law. The legal and institutional apparatus put in place for this purpose provide a suitable framework for implementation of such equality. It consists of:

- The police and gendarmerie, which conduct the preliminary investigations.
- Courts of various levels: here, the law makes provision for and guarantees the principles of a fair trial, including the rights of the defence, legally defined offences and penalties, and the presumption of innocence. Appeals may be lodged when necessary.

68. Like the National Human Rights Commission, the Directorate-General of Human Rights, Juvenile Judicial Protection and Social Action, the Directorate-General of Child Protection, Social Protection and Humanitarian Action, and the Directorate-General for the Advancement of Women and Gender are, through their responsibilities, involved in the elimination of all forms of discrimination, especially against the most vulnerable groups.

69. The Criminal Code contains provisions on discrimination, including:

- 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 individuals against each other is punishable by one to five years’ imprisonment and restricted residence. When the purpose or effect of an act of racial or ethnic discrimination, regionalist propaganda or an infringement of freedom of conscience or worship amounts to an offence against the security of the State or the integrity of the territory, the perpetrator or instigator shall be tried as a co-perpetrator or an accessory, as appropriate.”
- Article 208.3: “The following grave offences which, by action or omission, cause harm to persons or property protected under the Conventions signed in Geneva on 12 August 1949 and under Additional Protocols I and II to those Conventions adopted in Geneva on 8 June 1977, are war crimes punishable under the provisions of the present chapter: (...) practices of apartheid and other inhuman and degrading practices involving violation of personal dignity, based on racial discrimination.”

70. In order to reduce the economic, social and geographic disparities between rural areas and urban areas, the Niger has opted for decentralization as a means of organizing and administering the territory.

Vulnerable groups

71. The vulnerable groups to which the authorities accord particular attention include children, women, people with disabilities and the elderly.

Children

72. Article 21 (2) of the Constitution stipulates that “The State and its public authorities have a duty to ensure the physical, mental and moral health of the family, particularly mother and child”. Article 22 (2) stipulates that “The State shall also take measures to combat violence against women and children in public and private life”.

73. Article 24 (2) of the Constitution provides that “young people shall be protected by the State and the other public authorities against exploitation and abandonment. The State shall also foster the training, employment and occupational integration of young people”.

74. The Niger has adopted several policies and programmes on child protection, including the policy document on integrated development of young children, the framework document on childhood protection, and the Experimental Programme on Community-Based Child Protection. Despite this favourable child protection framework, various situations continue to prejudice children’s rights.

75. In 2012, the birth of 64 per cent of children under five had been registered, 60 per cent in rural areas, 92 per cent in towns.

76. Child labour is a reality in the Niger. In 2012, 48 per cent of children aged 5 to 14 worked. In 2000, 70 per cent did. There is a big difference between rural areas, where 51 per cent of children work, and urban areas, where 30 per cent do. Many children do dangerous work, one example being those who work in the gold-panning sites of Komabangou and M’banga.

77. To tackle this situation, the Government has set up a unit to combat child labour and drawn up a list of dangerous work forbidden to children. A project to prevent and eliminate child labour in traditional gold mines in West Africa has also been implemented. Moreover, article 107 of the Employment Code of 2012 prohibits child labour.

78. In the Niger, girls marry early. The Demographic, Health and Multiple Indicators Survey of 2012 found that the median age of first marriage varies from 15.5 years for girls to 23.1 years for boys. Almost one in four girls aged 15 to 19 (24 per cent) marries before the age of 15, and more than three quarters of women (77 per cent) marry when they are under 18. Progress in this area remains quite slow, with a slight fall — of four percentage points — in adolescents married under the age of 15 between 2006 and 2012, and stabilization of the percentage of women married when they are under 18 at around 77 per cent.

79. In 2012, the national prevalence of female genital mutilation/excision was 2 per cent, half what it was in 1998, when it was 5.6 per cent.

Women

80. The promotion and protection of women's rights are of constant concern to the authorities. When the Criminal Code was revised in 2003, certain forms of violence against women were criminalized, so that now sexual harassment, female genital mutilation, slavery, procuring, incitement to debauchery and rape are severely punished by the law.

81. The Government's wish to eliminate discrimination on grounds of sex found expression in the adoption of the National Policy on the Empowerment of Women in 1996 and then the National Gender Policy and its ten-year action plan 2009–2018. The vision of the Gender Plan is, by 2018, to build with all the players, "a society without discrimination in which men and women, girls and boys, have the same chances of participating in its development and enjoying the benefits of growth".

82. The major legislation promoting women's rights includes:

- Act No. 2000-008 of 7 June 2000 introducing a quota system in favour of one sex or the other in elected positions (10 per cent), and the State and government administration (25 per cent). It was amended by Act No. 2014-64 of 5 November 2014 to raise the quota for elected positions from 10 to 15 per cent.
- Act No. 2014-60 of 5 November 2014, amending Order No. 84-33 of 23 August 1984 on the Niger Nationality Code, which gave Niger women the right to pass on their nationality to their foreign spouse.

83. Work has also begun on a personal status code. The debates about its adoption continue.

84. Furthermore, the Niger has taken several measures to mainstream gender. This mainly involves setting up gender units in the various sectoral ministries through a process that began in 2007.

85. Despite this, violence against women and abuses connected with repudiation and forced marriage persist.

People with disabilities

86. As a Party to the Convention on the Rights of Persons with Disabilities, the Niger guarantees the rights of this category of person through articles 22 and 26 of the Constitution, which stipulate, respectively:

“The State shall ensure the elimination of all forms of discrimination against women, girls and persons with disabilities. Public policy in every field shall ensure their full development and participation in national development.”

“The State shall ensure that persons with disabilities enjoy equality of opportunity with a view to their promotion and/or social integration.”

87. In application of Order No. 93-012 setting the minimum rules for the social protection of people with disabilities, two decrees were adopted in 2010, one of which established the National Committee for the Promotion of Persons with Disabilities. In addition, article 9 of Legislative Decree No. 96-456/PRN/MSP exempts persons with disabilities from 100 per cent of the costs of consultations and hospitalization in national hospitals.

88. Under article 21 of the Order, all public establishments and private enterprises employing at least 20 persons are required to set aside 5 per cent of work posts for people with disabilities. Application of the provisions of this article resulted in the recruitment of 300 disabled graduates between 2007 and 2014.

89. In 2011, the Niger adopted a national social protection policy, the fourth main element of which concerns specific measures for vulnerable groups, including, among others, the disabled and the elderly.

90. It should nonetheless be emphasized that the main violence suffered by people with disabilities is their stigmatization by society.

The elderly

91. The State pays particular attention to the elderly. Article 25 of the Constitution stipulates: “The State shall care for the elderly through a social protection policy. The law shall set the conditions and methods of such protection.” It is in this context that a preliminary draft law on protection of the elderly is in preparation. Retired civil servants already enjoy 90 per cent payment of their medical expenses, as against the 80 per cent enjoyed by civil servants in post.

92. In addition, councils for the elderly were set up in 2015. Discussions are under way on strengthening the free care for the elderly and poor through the Social Fund planned for the health sector. Measures to introduce a non-contributory social pension (old age pension) are also being examined.

E. General legal framework on migration

93. The Niger has signed several international and regional instruments protecting the rights of migrants.

At the international level

- 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 Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention on Transnational Organized Crime, to which the Niger acceded on 18 March 2009;
- The Protocol to Prevent and Suppress Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention on Transnational Organized Crime, to which the Niger acceded on 30 September 2004.

At the regional level

94. The Niger is a party to several regional instruments regulating migration between signatory countries and residence by the nationals of the regions concerned (ECOWAS, West African Economic and Monetary Union (WAEMU), The Community of Sahel-Saharan States (CEN-SAD)). The most important of these is the ECOWAS Protocol on Free Movement of Persons, Residence and Establishment for ECOWAS citizens, adopted in May 1979, ratified on 29 November 1979.

95. This protocol provides:

“1. Citizens of the Community shall have the right of entry, residence and establishment and Member States undertake to recognise these rights of Community citizens in their territories in accordance with the provisions of the Protocols relating thereto.

2. Member States undertake to adopt all appropriate measures to ensure that Community citizens enjoy fully the rights referred to in paragraph 1 of this Article.

3. Member States undertake to adopt, at national level, all measures necessary for the effective implementation of the provisions of this Article.”

96. It is important to note that the Niger has acceded to the three additional protocols supplementing the Protocol of 29 May 1979 on Free Movement of Persons, Residence and Establishment:

- The Protocol of 29 May 1982 establishing the Citizenship Code of ECOWAS;
- The Supplementary Protocol of 1 July 1986 on the second phase (right of residence) of the Protocol on Free Movement of Persons, Residence and Establishment;
- The Supplementary Protocol of 29 May 1990 on the Implementation of the Third Phase (Right of Establishment) of the Protocol on Free Movement of Persons, Right of Residence and Establishment.

97. The 15 members of ECOWAS initialled a protocol on the free movement of persons, goods and capital in Dacca in May 1979.

At the national level

98. The Niger has introduced several measures to improve its national legal framework on migration. The Constitution enshrines protection of foreigners' rights.

99. Article 42 provides: “The State shall protect the rights and legitimate interests of Niger nationals abroad. Nationals of other countries shall enjoy in the territory of the Niger the same rights and freedoms as Niger nationals in the conditions set out in law.”

100. Two major pieces of legislation on migration should also be noted:

- Order No. 2010-66 of 16 December 2010 on combating trafficking in persons, currently being revised to punish illegal trafficking in migrants in general;
- Act No. 2015-36 of 26 May 2015 on illicit trafficking in migrants.

Part Two

Replies to the list of issues drawn up by the Committee

I. Replies to questions

A. General information

1. Please provide information on the domestic legal framework relevant to the Convention, in particular on:

(a) The rank of the Convention in domestic law and whether the Convention has direct effect or is incorporated in domestic law to ensure its application;

101. Article 171 of the Constitution of the Niger provides that “treaties or agreements lawfully ratified shall, upon their publication, have an authority superior to that of laws, subject to each agreement or treaty being applied by the other party”.

102. Consequently, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, ratified by the Niger, is an integral part of domestic law.

(b) National legislation of the State party relevant to the protection of migrant workers and members of their families under the Convention;

103. The protection of migrant workers and members of their families is covered by the Constitution, article 42 (2) of which provides: “Nationals of other countries shall enjoy in the territory of the Niger the same rights and freedoms as Nigeriens in the conditions set out in law.”

104. Similarly, Order No. 2010-66 of 16 December 2010 on combating trafficking in persons is currently being revised to punish illegal trafficking in migrants in general.

105. In addition, Act No. 2012-45 of 25 September 2012 on the Employment Code, particularly articles 5, 41, 48–52, 133, 158–160 and 190, protect the rights of migrant workers and the members of their families without discrimination.

106. Furthermore, to ensure application of Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, the Niger adopted Act No. 2015-36 of 26 May 2015 on illicit trafficking in migrants. Chapters V and VI of this Act provide for offences and the penalties applicable to them, international cooperation on the smuggling of migrants and the procedure for the return of smuggled migrants.

107. The National Agency to Combat Trafficking in Persons has been set up to organize the care, assistance and return of migrants who so wish to their country of origin.

(c) Measures taken by the State party to bring its legislation into line with the provisions of the Convention, in particular Order No. 81-40 of 29 October 1981 and its implementing decree No. 87-075 regulating the conditions of entry, residence and employment of foreigners;

108. The conditions of entry to and residence in the Niger are governed by the provisions of Order No. 81-40 and its implementing decree, while employment is regulated by the provisions of the Employment Code adopted in 2012. A combined reading of these two texts demonstrates the efforts the State of the Niger has made to respect the rights of

migrant workers and the members of their families, in particular regarding access to social services, such as health, education and the right to social protection.

- (d) **The existence and scope of bilateral and multilateral agreements with other countries concerning protection of the rights of migrant workers and members of their families in accordance with the principles of the Convention, in particular with the member States of the Economic Community of West Africa (ECOWAS), Libya, Algeria, Morocco, Tunisia, France and Italy. Please state how far these agreements protect the rights of migrant workers in the transit and destination countries, with particular regard to detention, repatriation/expulsion and family reunification procedures. Please also provide information on the steps taken to strengthen the protection of migrant workers of Niger nationality.**

109. The Niger has concluded bilateral and multilateral agreements with several countries on protection of the rights of migrant workers and the members of their families, particularly with ECOWAS member States. The most important of these is the Memorandum of Understanding between ECOWAS and the Ministry of Foreign Affairs on the migration for development and regional integration project, signed on 11 July 2013 in Abuja, Nigeria.

110. It should be noted that most foreigners in the Niger are from ECOWAS countries and enjoy certain advantages under Community agreements, such as freedom of movement. Most of them, indeed, are even unfamiliar with the formalities involved in legal residence. For several years, there have also been people who have been turned back from Libya or Algeria, and those who have fled the wars in Mali and Nigeria with the terrorist group Boko Haram.

111. The Niger has also concluded agreements with some African countries on freedom of movement and protection of the rights of migrant workers and the members of their families. One such is the agreement on immigration and waiving of visas between the Niger and Ghana signed on 8 November 1986. Article 5 of this agreement reproduces the stipulations of article 5 of the 1976 agreement, which provides that “the nationals of each of the two parties shall on the territory of the other party benefit from employment and social legislation and social security under the same conditions as nationals”.

112. The Niger has concluded agreements with some European and Asian countries too. These are:

- The Memorandum of Understanding between the national police of the Niger and the Italian Department of Public Security to strengthen cooperation on combating illegal trafficking in migrants and illegal immigration, signed on 9 February 2010 in Niamey. Its purpose is to strengthen cooperation on exchange of experiences, especially on combating illegal trafficking in migrants and illegal immigration. The scope of the agreement, which was ratified by Letter No. 000010/PRN of 10 March 2014, also includes working together against illegal immigration and trafficking in human beings and the related criminal offences. This is done through exchange of information on:
 - Illegal immigration flows;
 - Modes of travel and routes followed;
 - The manufacture and use of forged visas and travel documents;
 - The activities, composition, methods and strategies of the criminal organizations and groups involved in illegal immigration and trafficking in human beings.

- The Framework Agreement on cooperation on immigration, signed on 10 May 2008 in Niamey between the Ministry of Foreign Affairs, Cooperation and African Integration and of Niger nationals outside the Republic of Niger and the Spanish Embassy.
- The bilateral agreement on the employment of Niger domestic workers, signed on 5 June 2015 in Geneva, Switzerland, between the Ministry of Employment, Labour and Social Protection of the Republic of Niger and the Ministry of Employment of the Kingdom of Saudi Arabia.

113. There are also two frameworks for cooperation with the European Union:

- Cooperation in the framework of the Euro-African Dialogue on Migration and Development (the Rabat Process), launched in Morocco in 2006, which brings together some 60 African and European countries and international organizations concerning the migratory route from central and West Africa to Europe via North Africa. This cooperation has enabled two activities to be carried out: the organization in Niamey in October 2014 of a capacity-building workshop for the government services involved in the reintegration of migrants forcibly returned to our country, and the drafting in August 2015 of a consolidated reference document which will be used to draft a guide on the use of migration data. Recommendations were formulated at the 2014 workshop on taking account of returned migrants in crisis response mechanisms, including the national multi-risks contingency plan.
- Cooperation in the framework of the Valetta Summit: when organizing the Summit, the European States were particularly interested in countries such as the Niger and Mali as transit countries for illegal migration to North Africa and Europe and the related criminal networks. The Ministry of Foreign Affairs, Cooperation and African Integration and of Niger Nationals outside the Niger and its external services took an active part in the Summit, at the end of which the European partners put in place an emergency trust fund of €1.8 billion to finance projects in African partner countries, including the multipurpose centre in Agadez.

114. The Niger actively prepared and participated in the ministerial meeting that launched the fourth phase of dialogue in Rome in November 2014 (the Rome Programme).

115. There are no specific agreements with the aforementioned countries (Algeria, Libya, France, Italy, Morocco and Tunisia). However, in the framework of transnational migration, the European Union has initiated a cooperation programme involving all the States affected by migration, whether as countries of origin, transit or destination. In this context, the Niger, which is all three (country of origin, transit and destination), benefits from significant investment in reception, temporary accommodation, care and assisted return of migrants who pass through its territory.

2. **Please provide information on the policies and strategies relating to the rights of migrant workers and members of their families adopted by the State party. Please specify the measurable objectives and deadlines that the State party has set to monitor effectively the progress made in implementing the rights of migrant workers and members of their families, and provide information on the resources allocated to realizing those rights and on the results already achieved and those expected.**

116. The Niger has not yet adopted policies and strategies on the rights of migrant workers and the members of their families, but an interministerial committee has been set up to draw up a national migration policy.

117. It should therefore be emphasized that a national strategy against illegal migration is in preparation. The first activities began on 17 June 2016 with the deployment of European Union experts to support the interministerial committee in drawing up the strategy. Bilateral meetings between experts and the bodies responsible for migration issues were held and there was a visit to the police border post at Makalondi.

118. It is important to stress that, at the Valletta Summit, the President of the Niger presented the sustainable development programme to prevent and combat illegal migration. This programme has four subprogrammes: security; sustainable development to control flows; technical vocational training; and crafts and tourism. The total budget is CFAF 443,136,986,300.

119. As a follow-up to Valletta, the European Union organized a round table in Niamey on 2 and 3 February 2016, the conclusions of which were to set up a consultation framework on migration and a permanent secretariat in the Migration Directorate of the Ministry of the Interior, Public Security, Decentralization and Customary and Religious Affairs.

3. Please provide information on the government ministry or institution responsible for intergovernmental coordination of the implementation of the Convention in the State party, including information on the available staffing and resources as well as monitoring activities and follow-up procedures.

120. In the Niger, the recruitment and placement of the workforce are the responsibility of the National Employment Agency. Article 4 of Decree No. 96-405/PRN/MFPT/E of 4 November 1996 approving the rules governing the Agency states that it is responsible for:

- “- the placement of job-seekers;
- the introduction and repatriation of manpower;
- the transfer, in the framework of the regulations in force, of migrant workers' savings;
- the recording of statements on the employment of workers and issuing their work cards;
- collecting and keeping documentation on offers of employment and job seekers in general; all questions relating to the use and distribution of labour, including monitoring changes in the labour market and preparing a statistical report;
- contributing to the drawing up and implementation of a national employment policy, including by conducting programmes for the integration and reintegration of job seekers, advising job seekers, and action to promote employment.”

121. The National Employment Agency has 58 officers, to which should be added the staff of the Diffa and Tahoua inspectorates. Its budget for 2016 is CFAF 1,392,228,328. This is the total budget; it is not only for the promotion and protection of migrant workers and the members of their families.

4. Please provide information, including qualitative information and statistical data, disaggregated by sex, age, nationality and migration status, on labour migration flows into and from the State party, on returns, on other labour migration-related issues and on children abandoned by their migrant parents. Please also provide qualitative and statistical data or, if precise data are not available, studies or estimates on migrant workers in an irregular situation in the State party or abroad, in particular

those working in less regulated sectors such as agriculture, the mining industry and domestic services. Please additionally provide information on measures taken by the State party to establish a coherent and cross-comparable system for collecting data on these issues and making it public.

122. The International Organization for Migration (IOM) estimates that 9,060 migrants have gone to Libya (via Séguédine, the Niger) and to Algeria (via Arlit, the Niger) since the operation to monitor migrant flows was launched in February 2016. It is thought that 3,812 migrants came to the Niger from these two countries during the same period.

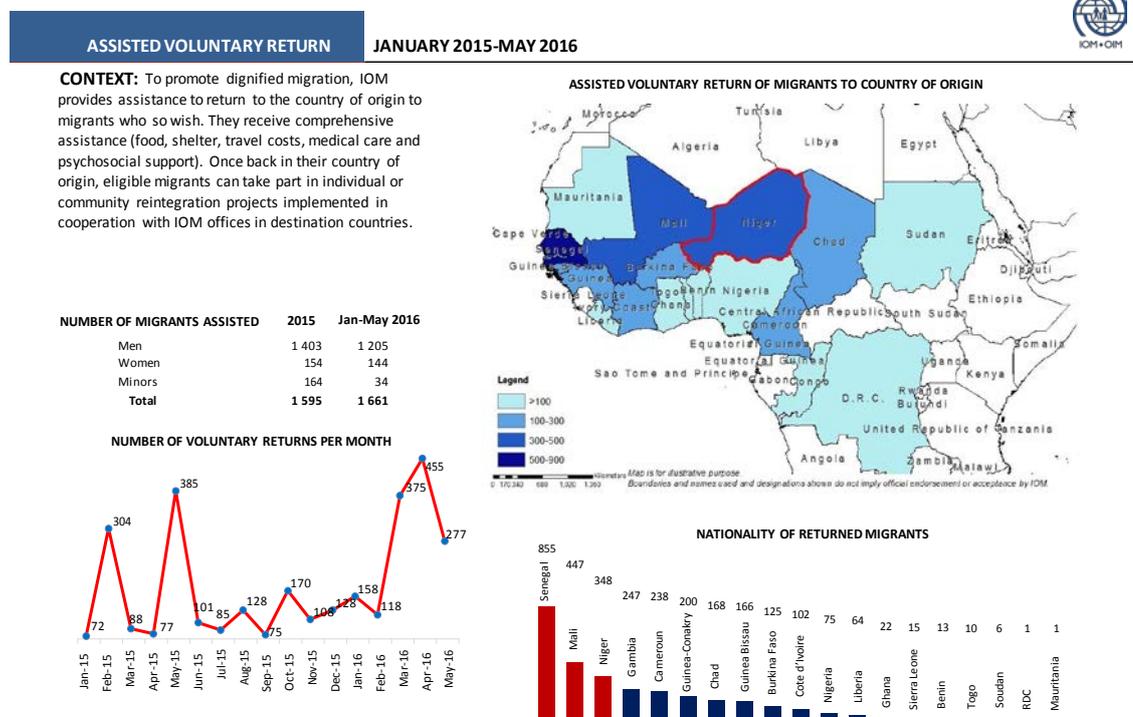
123. The figures show that 963 minors left or arrived via Séguédine and Arlit. Most of them — 72 per cent — were recorded as entering the Niger. Sixteen per cent of them were unaccompanied.

124. The migrant flows passing through Séguédine are made up of Niger nationals and a great majority of nationals of other West African countries. The flows leaving Arlit are also composed of Niger nationals and other West African nationalities. These flows go to Guezzam and thence to Tamanrasset or Oran in Algeria. The flows arriving in Arlit are composed mainly of repatriated Niger nationals.

125. As the migration of Niger nationals to Algeria has swelled in recent years, measures have been taken by both countries to repatriate them. More than 9,200 Niger nationals have returned from Algeria since the repatriation operation began in 2014.

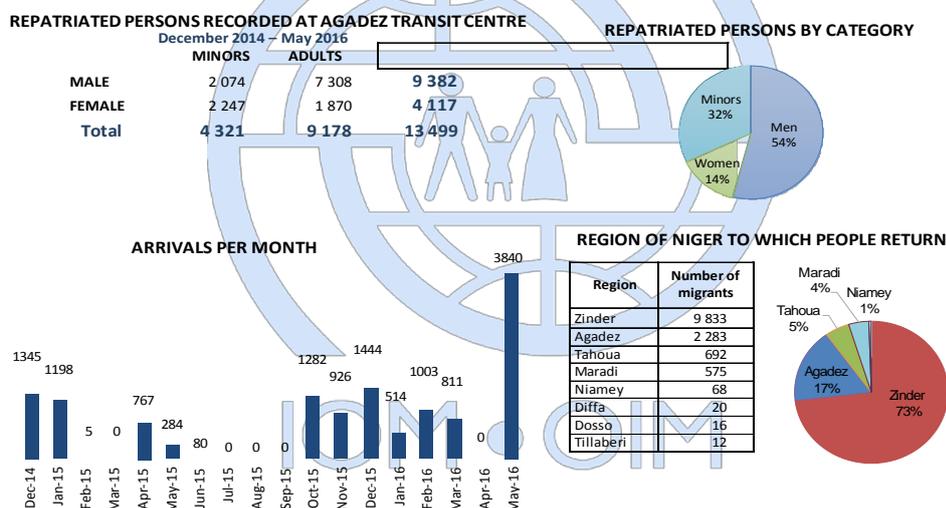
126. Broken down by age and sex, there were 1,432 women, 4,710 men and 3,137 children. Most of these migrants — 67 per cent of the total repatriated — were from Zinder (Source: United Nations Office for the Coordination of Humanitarian Affairs (OCHA) Humanitarian Bulletin Niger, February/March 2016).

127. The charts and table below, produced by the International Organization for Migration, illustrate this situation.




REPATRIATION FROM ALGERIA TO NIGER December 2014 – May 2016

CONTEXT: Since December 2014, the Nigerien Government has coordinated an operation to repatriate Nigeriens based in Algeria. The OIM provides humanitarian assistance directly to migrants through transit centres, including assisted voluntary return to their communities.



5. Please provide detailed information on the mandate of the Niger's National Human Rights Commission, including the human, technical and financial resources allocated to it. In particular, please indicate whether the Commission's mandate is in conformity with the Paris Principles (see General Assembly resolution 48/134 annexed hereto), placing special emphasis on efforts to strengthen its financial and institutional independence while specifying whether its mandate includes specific treatment of the rights of migrant workers and their families in accordance with the principles set out in the Convention. Please provide detailed information on activities aimed at the general public, and migrant workers in particular, whether living in urban or rural areas, to inform them about the services offered by this institution, including current appeal procedures, complaint mechanisms, helplines and other services offered. Lastly, please state whether the Commission's mandate provides for visits to detention centres for migrants and other care centres for migrants of the Niger nationality repatriated/expelled from their countries of employment or transit.

128. The National Human Rights Commission was established under article 44 of the Constitution of 25 November 2010. It has extensive powers to investigate all human rights-related questions. Article 30 of Act No. 2012-44 of 24 August 2012 setting out the composition, organization, responsibilities and functioning of the Commission states regarding its mandate that it receives:

- The complaints of victims, their dependants, human rights associations and NGOs and any other natural or legal person concerned. The Commission website is under construction and will enable any person whose rights have been violated to lodge a complaint;
- Witness statements;
- The statements of alleged perpetrators.

129. The Commission complies fully with the Paris Principles: its composition is pluralist and it represents philosophical and social currents of thought (representatives of the Bar, judges, human rights associations, women's rights associations, teachers and researchers, union confederations, the rural community and parliament). Its members enjoy a lengthy term of office (four years, renewable once).

130. The Commission is free to decide its working methods. It has conducted several activities to promote and protect human rights. It has dealt with complaints, monitored the human rights situation in the extreme east of the country connected with Boko Haram (the Islamic State in West Africa) terrorist attacks, and monitored compliance with the United Nations Guiding Principles on Business and Human Rights in national and multinational companies.

131. The Commission publishes reports on its activities. Thus, in accordance with article 44 of the Constitution, it submitted its combined 2013/2014 report to the National Assembly on 27 November 2015.

132. It should also be noted that the Commission has its own premises and an annual budget of some CFAF 300 million that it manages independently.

133. In terms of human resources, the Commission is composed of:

- 9 members or commissioners;
- 33 officers (seconded civil servants and contractual workers);
- 7 focal points in seven regions of the Niger. The focal points have been put in place pending the establishment of regional offices;
- 11 national civic service conscripts;
- 12 trainees.

134. The Commission also has technical resources (a fleet of 15 vehicles and motorbikes for field missions, a library, and computers).

135. It is important to emphasize that the mandate of the National Human Rights Commission, which is in line with the Paris Principles, does not specifically cover the rights of migrant workers, but it takes a close interest in migration issues and has included it in its strategic action programme, which is currently being updated. Its mandate does not specifically provide for visits to detention centres for migrants but, during regular visits to places of detention its members have often spoken with migrants (Agadez and Arlit police stations in 2013 and 2014).

136. Regarding activities aimed at the general public, they amount essentially to awareness-raising and information about migration-related issues through lectures and debates and involvement in drafting the national migration policy, which is currently under way.

- 6. Please provide detailed information on measures taken to promote and disseminate the Convention and to promote awareness and understanding of its provisions to the general public, migrant workers and members of their families, employers, teachers, health professionals, embassy/consular personnel and relevant officials, including law enforcement officers, border police and members of the judiciary. Please also describe the steps taken by the State party to establish training programmes on the rights of migrant workers and members of their families, to include gender mainstreaming and children's rights, for officials with responsibility for migration questions.**

137. The Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families has not been the subject of specific dissemination and awareness-raising aimed at the general public. It has, however, been distributed at some training sessions for judges; for example, in 2010, during a session on the various international legal instruments on the promotion and protection of human rights.

138. In collaboration with the IOM, the National Agency to Combat Trafficking in Persons has conducted several awareness-raising activities and organized training for civil servants and people working for civil society organizations.

139. There are as yet no actual training programmes on the rights of migrant workers and the members of their families but, with the assistance of IOM, the Niger is planning to organize such training on the Convention.

7. Please provide information on the cooperation of the State party with human rights organizations and civil society organizations working on migrants' rights in relation to the implementation of the Convention and indicate how far they have been involved in the preparation of replies to the present list of issues. Please also state how they have been involved in promotion of the Convention.

140. Generally, the Government has good partnership relations with civil society organizations in all fields. NGOs working in the human rights field and specifically on migrant rights are involved in several activities to promote and protect human rights run by the Ministry of Justice through the Directorate-General of Human Rights, the National Agency to Combat Trafficking in Persons, and the National Coordinating Commission against Trafficking in Persons.

141. Monitoring and management of relations between the Ministry of Justice and civil society, NGOs and all other national, regional and international human rights organizations are among the responsibilities of the Directorate of Human Rights, as set out in Order No. 00017/MJ/GS/PPG of 1 March 2012.

142. The Government has in fact opted for the participatory approach for everything regarding the drafting of reports to treaty bodies.

143. Specifically concerning the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the civil society organizations working on migrants' rights have been involved in its implementation through partnership with the National Agency and the National Coordinating Commission.

144. They were also consulted when information was collected and took part in the workshop to approve this report.

8. Please state whether private employment agencies in the State party recruit migrant workers to send them to work abroad and, if so, please give information on the laws and regulations applicable to private recruitment, and in particular:

145. Under article 14 of the Employment Code, "Without the authorization of the Ministry responsible for labour, no one shall conduct operations for the collective recruitment of workers with a view to their employment outside the territory of the Republic of the Niger".

146. Nonetheless, the National Employment Agency may do so in the context of implementing bilateral agreements with friendly States.

(a) **Measures taken to provide information and training to migrant workers on their rights and obligations, as well as to protect them against abusive employment situations;**

147. In the context of the agreement signed between the Niger and the Kingdom of Saudi Arabia, all authorized Saudi agencies are required to submit a model standard contract in order to guarantee the rights and duties of Niger nationals working Saudi Arabia.

148. Such agencies are also required to establish training centres to familiarize Niger candidates with the customs of the host country and to organize an immersion course in the language.

149. Furthermore, access to vocational guidance and training, the minimum working age, the employment of women, union membership and collective bargaining, pay, working hours, rest periods, paid holidays, health and safety at work measures, apprenticeships and training are guaranteed to migrant workers and the members of their families whose situation complies with legislation, except for restrictions provided for under the principle of the sovereignty of States and reciprocity between them.

(b) **The role and responsibilities of recruiters and their potential joint liability with the employer for claims and liabilities that may arise in connection with the implementation of the employment contract, including wages, disability compensation, death and repatriation;**

150. Regarding the continuation of benefits and allowances acquired through contributions, article 105 (4) of Decree No. 65-117 MFP/T of 18 August 1965 on industrial accidents and occupational diseases provides that the lapse of the rights of a foreign worker and his dependents may be circumvented by an international treaty. Similarly, article 34 of the Inter-African Conference on Social Security provides that “employed women who stay or reside in the territory of a contracting party other than the State with jurisdiction shall benefit within the territory of that party from the daily benefit provided for in the event of maternity. Such benefits shall be paid by the institution with jurisdiction according to the provisions of the legislation that it applies as though the women concerned were staying or residing in the territory with jurisdiction”.

151. Article 10 of the General Social Security Treaty of 28 March 1973 between the Government of the French Republic and the Government of the Republic of the Niger provides: “a French woman working in the Niger or a Niger woman working in France who is eligible for maternity benefit paid by, in the former case, a Niger institution, in the latter case, a French institution, shall maintain eligibility for those benefits when she transfers her place of residence to the territory of the other State, provided that, prior to her departure, she has obtained authorization from the Niger or French institution to which she has contributed”.

152. Article 17 of this treaty provides: “nationals of either of the contracting parties who have an invalidity pension under the legislation of one party shall receive the pension in full if they reside in the territory of the other party”.

153. Article 28 of the same treaty regarding old age, invalidity and death insurance provides: “where the legislation of one of the contracting parties makes the award of certain advantages or the accomplishment of certain formalities subject to conditions of residence in this country, they shall not be enforceable against Niger or French nationals so long as they reside in one of the contracting parties”.

154. In addition, article 31 provides: “The provisions [on] industrial accidents and occupational diseases contained in the legislation of one contracting party that restrict the rights of foreigners or disqualify them on grounds of residence shall not be enforceable against nationals of either of the contracting parties.”

155. Article 32 provides: “A French worker who is the victim of an industrial accident or occupational disease in the Niger or a Niger worker who is the victim of an industrial accident or occupational disease in France and is eligible for benefits during the period of temporary incapacity shall maintain enjoyment of those benefits when he or she transfers residence to the territory of the other party.”

156. Article 6 (1) of the Air Afrique agreement provides: “Cash invalidity, old age or survivor’s benefits, industrial accident or occupational disease annuities and family and maternity benefits due under the legislation of one or more of the contracting parties shall not be subject to any reduction, modification, suspension, cancellation or confiscation as a result of the worker, his family or his survivors residing in the territory of a contracting party other than the one in which the institution liable is to be found.”

157. Article 8 (1) of the former African and Malagasy Common Organization provided: “Cash invalidity, old age or survivor’s benefits, industrial accident or occupational disease annuities and family and maternity benefits due under the legislation of one or more of the contracting parties shall not be subject to any reduction, modification, suspension, cancellation or confiscation as a result of the worker, his family or his survivors residing in the territory of a contracting party other than the one in which the institution liable is to be found.”

158. Article 50 (6), of the Employment Code provides that “repatriation shall in all cases be at the employer’s expense”.

159. Article 168 (3) of the Code provides that “no employer shall restrict in any manner whatsoever the freedom of the worker to dispose of his wages as he sees fit”.

(c) Information on the issuing and renewal of licences by such private employment agencies;

160. Article 1 of Decree No. 96-406/PRN/MFPT/E of 4 November 1996 setting out the conditions for establishing and opening private employment bureaux or agencies provides that “any natural or legal person who exclusively or principally conducts as an intermediary the recruitment of job seekers for employers in return for remuneration shall be called a private employment bureau or agency”.

161. Article 5 of the same decree provides that “any natural or legal person wishing to establish a private recruitment bureau or agency shall first obtain the approval of the Minister of Employment”.

162. Moreover, article 6 provides that “the approval provided for in article 5 above shall be subject to the following conditions:

- (1) natural persons shall:
 - hold Niger nationality;
 - be adult and enjoy civic rights;
 - provide proof of a bank guarantee;
 - be of good character.
- (2) persons representing them shall fulfil the same conditions”.

163. Article 8 adds that “the opening of a private recruitment bureau shall be subject to the production of the following additional items:

- a social security registration number;
- a certificate of enrolment on the commercial register;
- a bank account number;
- a bank guarantee certificate;
- a certificate of good character”.

164. Article 10 provides that “authorization shall be personal and non-transferrable”.

(d) Information on complaints against agencies and inspections, as well as penalties and sanctions for non-compliance with the regulations;

165. Act No. 2012-45 of 25 September 2012 on the Employment Code includes provisions and mechanisms to prevent and settle disputes. For example, in addition to the conciliation provided by labour inspectors to settle disputes, provision has been made for other mechanisms, such as the arbitration council and mediation by an independent authority or expert.

166. Legal remedies may also be sought before the employment tribunals. Migrant workers enjoy the same rights as nationals with regard to referring a matter to the courts, according to the place of performance of the employment relationship or of residence.

167. For example, article 298 (1) of the Employment Code stipulates that “The procedure before the employment tribunal and before the Court of Appeal shall be free of charge. Moreover, the worker shall enjoy legal assistance to have judgments in their favour enforced”. The transport costs of a foreigner who is subject to a repatriation order are paid by the transporter who introduced him or her into the Niger (article 31 of Decree No. 87-076 of 18 June 1987).

168. This concerns situations in which the expatriate holds none of the travel documents referred to in article 2 of Decree No. 87/076/PCMS/MI/MAE/C of 18 June 1987. If the worker constitutes a threat to public order, the cost of repatriation transport shall be at his or her own expense.

169. If, however, a work permit is not granted, the employer is required to bear the cost of repatriation. The conditions of entry and residence are in fact clearly set out in the regulations. Generally, settlements are reached to avoid inconvenience. Otherwise, the chances of a successful appeal are limited if the proper entry procedure has been violated.

(e) Measures taken by the State party to strengthen migration regulation and control mechanisms to ensure that private recruitment agencies abstain from charging excessive fees for their services and from acting as intermediaries for abusive foreign recruiters.

170. The Niger has introduced several legislative and institutional measures to strengthen mechanisms for regulating and monitoring migration. These include:

- Decree No. 87/076/PCMS/MI/MAE/C of 18 June 1987 regulating the conditions of entry and residence of foreigners in the Niger, article 13 of which provides: “a foreigner who comes to the Niger to pursue a regulated profession shall also prove he/she has either an employment contract stamped by the relevant department of the Ministry of Employment or an authorization from that department or an authorization issued by the relevant ministry, if he/she intends to pursue another salaried occupation”.

- The Employment Code, article 48 (2) of which stipulates: “foreigners’ employment contracts shall be recorded in writing and stamped by the public employment service with the prior agreement of the Minister of Employment”.
- Article 264 of the same Code provides that “the recruitment operations of the public employment service shall be free of charge. Subject to the disciplinary and/or criminal penalties provided for by the laws in force, it shall be forbidden to offer or give to any person working in the service, and for such a person to accept, payment in any form whatsoever for the recruitment or registration of a job seeker”.
- Article 352 (h) of the Employment Code, provides that “Any person belonging to the public employment service who demands or accepts payment of any kind in return for the recruitment or enrolment of a worker, or any person who has offered or given an officer of the public employment service remuneration for this purpose” is punishable under the Criminal Code.
- Decree No. 96-413/PRN/MFPT/E of 4 November 1996 setting out the formal requirements of certain employment contracts, article 11 of which provides: “the duration of the visa for foreign workers’ contracts shall not exceed two (2) years, renewable once only”. Article 5 of the same Decree provides that “the employer shall apply for a visa” and, under article 48 (5) of the Employment Code, “it shall be obtained before the arrival of any foreign worker in the territory of the Niger”.
- Decree No. 96-411/PRN/MFPT/E of 4 November 1996 on the organization and functioning of labour inspectorate services, article 29 of which provides that “every worker recruited shall be issued with an employment card the cost of issuance of which shall be borne by the employer”.
- The labour inspectorate ensures that employers comply with legislation and regulations on the employment of foreign labour, including the conditions of their arrival and employment.

B. Information relating to the articles of the Convention

1. General principles

9. Please indicate whether the Convention has been directly applied by officials in the administration and/or invoked directly before the courts. If so, please provide examples. Please also provide information on:

(a) Judicial and/or administrative mechanisms competent to examine and decide on complaints by migrant workers and members of their families, including migrant workers in an irregular situation;

171. As a State party to the Convention on the Protection of the Rights of Migrant Workers and Members of Their Families, the Niger has adopted legislation to make it applicable. This is evidenced by various Acts and implementing decrees, which include the order to combat trafficking in persons, the Act on illicit trafficking in migrants and the decrees organizing the bodies to combat trafficking in persons (the National Coordinating Commission against Trafficking in Persons and the National Agency to Combat Trafficking in Persons). The provisions of the Convention can also be invoked before the courts.

- (b) **The number and type of complaints examined by such entities since the date of entry into force of the Convention for the State party, and their outcomes;**

172. There are at present no statistical data on the subject. A complaint is currently being dealt with by the Niamey labour inspectorate in the context of implementation of the bilateral agreement on the employment of Niger domestic workers in Saudi Arabia. This complaint concerns the payment of repatriated workers whose trial period was not positive.

- (c) **The possibility for migrant workers to access legal and judicial assistance in this context;**

173. Article 4 of the Legal and Judicial Assistance Act provides that “everyone shall have access to legal assistance, regardless of nationality, sex, age or any other consideration”, while article 5 provides that such assistance shall be free of charge. Judicial assistance is enshrined in articles 11 to 28 of the Act, which set out the extent and areas in which it is available and the beneficiaries of such assistance, which is available either on grounds of poverty or automatically, and the procedure before the authorities able to grant it.

174. Migrant workers may claim legal and judicial assistance under the aforementioned provisions. The National Legal and Judicial Assistance Agency is responsible for making [it] available to certain categories of vulnerable people and those who do not have the necessary income to pay the costs of a trial.

- (d) **Any redress, including compensation, provided to the victims of such violations;**

175. The law makes no distinction between nationals and foreigners regarding compensation awarded to victims of rights violations. The provisions are general and applicable to everyone without distinction.

- (e) **Any measures taken to inform migrant workers and members of their families about the remedies available to them for violations of their rights.**

176. No specific measures are taken to inform migrant workers and the members of their families of the remedies available to them for violation of their rights. The provisions of the ordinary law are applicable.

177. In practice, the National Agency for Legal and Judicial Assistance and its local offices (in regional courts) are responsible for disseminating the law on legal and judicial assistance and informing the public about it (how to take a case to court and the remedies available in law).

2. Part II of the Convention

Article 7

10. **Please indicate whether national legislation, in particular the Constitution and the Employment Code, guarantees that all migrant workers and members of their families within the State party’s territory or subject to its jurisdiction enjoy the rights provided for in the Convention, without distinction of any kind, and whether it covers all the prohibited grounds for discrimination set forth in article 1 (1) and article 7 of the Convention, such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status. Please also provide detailed information on the measures taken by the State party to ensure respect for the principle of non-discrimination, in law and in practice. Lastly, please provide information on the access to health and other social services for all migrant workers**

and members of their families, as well as education for the children of migrant workers, including those in an irregular situation.

178. The Preamble to the Constitution declares the Niger's commitment to the principles of pluralist democracy and human rights as set out in the Universal Declaration of Human Rights 1948 and the African Charter on Human and Peoples' Rights of 1981. It affirms the commitment of the Niger people to African unity and to doing everything possible to bring about regional and subregional integration, and its wish to cooperate in friendship and equality with all peoples who embrace peace, justice and freedom.

179. Moreover, article 42 of the Constitution provides: "nationals of other countries shall enjoy in the territory of the Republic of Niger the same rights and freedoms as nationals of the Niger in the conditions set out in law".

180. Article 33 (2) of the Constitution provides: "No one shall be the victim of discrimination at work."

181. The provisions of Act No. 2012-45 of 25 September 2012 on the Employment Code enshrine the fundamental rights at work without distinction between nationals and migrant workers. The Code applies to all workers regardless of nationality.

182. Thus, Article 5 states: "Without prejudice to the express provisions of this Code or any other legislative or regulatory text protecting women and children, or the provisions on foreign status, no employer shall take into account the sex, age, national extraction, social origin, race, religion, colour, political or religious views, disability, HIV-Aids, sickle cell disease, membership or non-membership of a trade union or trade union activity when making decisions relating, in particular, to recruitment, the conduct and distribution of work, staff development, advancement, promotion, remuneration, allocation of social benefits, disciplinary measures or termination of employment."

183. Regarding the performance of employment contracts, Article 41 of the Employment Code provides: "regardless of the place in which the contract has been concluded and of the place of residence of either party, all employment contracts concluded between an employer and a worker that are to be performed in the Niger shall be subject to the provisions of this Code. The same shall be the case of any employment contract that is to be performed in a place where other legislation is applicable but a part exceeding three (3) months of which is to be performed in the Niger".

184. Article 2 of the Code provides: "Any person who has undertaken to place his or her professional activity under the management and authority of another person, whether natural or legal, public or private, shall be considered a worker under this Code, regardless of their sex or nationality."

185. Discrimination based on nationality is justified by the imperatives of sovereignty. Discrimination based on race, sex or religion is inadmissible in the Niger, apart from the protection accorded to women and children.

186. Moreover, access to vocational guidance and training, the minimum working age, the employment of women, union membership and collective bargaining, pay, working hours, rest periods, paid holidays, health and safety at work measures, apprenticeships and training are guaranteed to migrant workers and the members of their families whose situation complies with legislation, except for restrictions based upon the principle of the sovereignty of States and reciprocity between them.

187. The Constitution guarantees migrant workers and the members of their families access to health in the same conditions as nationals, article 12 providing: "Everyone has the right to life, health, physical and mental integrity, healthy and sufficient food, safe drinking water, education and instruction under the conditions defined by law." Article 13 provides:

“Everyone has the right to attain the best possible state of physical and mental health. The State ensures that conditions are created to guarantee everyone medical services and medical assistance if they are ill.”

188. National health policy also emphasizes universal access to high quality health care and services without any form of exclusion or discrimination and with full participation by all groups of people.

189. Act No. 98-12 of 1 June 1998 on the Niger education system does not discriminate against the children of migrant workers, article 8 stating clearly that “The right to education is recognized to everyone regardless of age, sex, or social, racial, ethnic or religious origin”.

3. Part III of the Convention

Articles 8 to 15

11. **Please provide information on measures taken to combat the labour exploitation of migrant workers, including those in an irregular situation and in particular those in the mining and agriculture sectors. Please also provide information on the measures taken to prevent and combat domestic slavery, forced labour, exploitation by begging, exploitation and sexual abuse, especially in the context of sex tourism and the practice of *wahaya* or the “fifth wife”, of migrant workers, in particular women and children. Finally, please provide information on the measures taken to harmonize national legislation with the International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105).**

190. The measures taken to combat the labour exploitation of migrant workers, including those in an irregular situation, include:

- Legislation: Order No. 2010-86 of 16 December 2010 on trafficking in persons prohibits subjecting any person, whether a national or a foreigner, to any form of labour or sexual exploitation. In the section on protection of the rights of migrants, Act No. 2015-36 of 26 May 2015 on illicit trafficking in migrants prohibits exploiting the vulnerabilities of migrants.
- At the institutional level, Decree No. 2012-082/PRN/MJ of 21 March 2012 established the National Coordinating Commission against Trafficking in Persons, and Decree No. 2012-083/PRN/MJ of 21 March 2012, the National Agency to Combat Trafficking in Persons. The former is responsible for devising national policies and strategies on trafficking in persons and illicit trafficking in migrants, while the latter is responsible for implementing those policies and strategies. The establishment under Joint Order (Ministry of Interior and Ministry of Justice) No. 0316/MI/SP/D/AC/R/MJ/GS of 2 May 2016 of a consultation framework for migration should also be noted.

191. In order to prevent and combat domestic slavery, forced labour exploitation by begging, sexual exploitation and abuse, especially in the context of sex tourism and the practice of *wahaya* or the “fifth wife”, of migrant workers, in particular women and children, the provisions of the legal texts referred to above are applicable, regardless of sex, race, ethnicity, language, religion, political views, national, regional or social origin, membership of a national minority, property or birth (article 3 of the Order on trafficking in persons and article 4 of the Illicit Trafficking in Migrants Act).

192. Regarding measures taken to harmonize national legislation with the ILO Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105), the Niger has amended its labour legislation by adopting Act No. 2012-45 of 25 September 2012 on the Employment Code, which takes into account the ILO conventions (see article 4 of the Act). The Niger was also the first country to ratify the Protocol of 2014 to the Forced Labour Convention.

193. The Government has taken legislative and regulatory measures to counter illegal migration, including Order No. 2010-86 of 16 December 2010 on trafficking in persons and Act No. 2015-36 of 26 May 2015 on illicit trafficking in migrants.

194. In accordance with the provisions of article 96 of the aforementioned Order, the National Coordinating Commission against Trafficking in Persons and the National Agency to Combat Trafficking in Persons were established.

195. Act No. 2015-36 of 26 May 2015 on illicit trafficking in migrants makes provision for combating all forms of illicit trafficking in migrants and imposes a fine of from CFAF 1,000,000 to CFAF 3,000,000 on any commercial transporter, natural or legal person responsible for the exploitation of a commercial transportation activity that fails to check that each passenger is in possession of the identity and/or travel documents required to enter the destination State and any transit State.

196. Other measures include:

- Act No. 2012-45 on the Employment Code, article 4 of which strictly prohibits forced labour in these terms: “forced or compulsory labour shall be prohibited”.
- Act No. 2003-025 of 13 June 2003, which added to the Criminal Code article 270-1 to 270-5, punishing slavery as a crime and a misdemeanour.
- Establishment of the National Commission to Combat the Survival of Forced Labour and Discrimination.
- Order No. 2010-086 of 16 December 2010 punishing slavery as a form of trafficking in persons in these terms: “exploitation includes, at the very least, slavery or practices similar to slavery, servitude or the removal of organs, exploitation of the prostitution of others and other forms of sexual exploitation, exploitation of the begging of others, exploitation of forced labour or services...”. It makes provision for the establishment of a special fund to compensate victims of trafficking in persons, including victims of slavery.
- In December 2014, in collaboration with the International Labour Office, the Niger officially launched the second phase of the support project for combating forced labour and discrimination (PACTRAD II).

12. Please provide detailed information on the measures taken to investigate allegations of harassment and corruption by some security services and by the immigration authorities at the national and local levels, particularly at borders, and of abuse of power by law enforcement authorities through the use of, for example, arbitrary detention of migrant workers and members of their families. Please specify the number of cases reported, proceedings instituted, officials brought to trial and convictions secured.

197. Harassment and corruption are offences provided for and punishable by the Criminal Code under articles 282.1 and 130*ff*. These provisions are general in application and not specific to migrant workers and the members of their families. Accordingly, any person who is the victim of an offence provided for and punishable under the Criminal Code may lodge a complaint and have his or her case heard and decided by the courts.

198. No statistics are at present available on cases reported, proceedings instituted, officials brought to trial or convictions secured.

Articles 16 to 22

13. **Please describe measures in place to ensure due process for migrant workers and members of their families who are under investigation, or are arrested or detained for administrative or criminal offences, including in cases related to immigration, notably with regard to access to legal assistance, interpretation and adequate medical care. In this connection, please state whether the State party has put in place alternatives to the detention of migrant workers, in particular unaccompanied children and families with children. Please state whether measures are in place to allow migrant workers held in this context to exercise their right to an effective remedy enabling them to challenge the legality of administrative decisions relating to their detention, expulsion or *refoulement*.**

199. Migrant workers and members of their families who are under investigation or detained for administrative offences concerning violation of legislation on conditions of entry and residence are interviewed at the National Surveillance Directorate. If it is established that the facts of which a migrant is accused may be criminal offences, he or she is reported to the police. Legal assistance is provided free of charge by the National Legal and Judicial Assistance Agency. Foreigners, including migrant workers and members of their families, benefit from legal assistance in the same way as nationals without discrimination.

200. Regarding medical care, in accordance with article 25 of the Illicit Trafficking in Migrants Act: “trafficked migrants shall have the right to receive the emergency medical care necessary to save their lives or avoid irreparable damage to their health, on the basis of equal treatment with nationals of the State. Such emergency medical care shall not be refused to them on the grounds of any irregularity regarding entry of residence in the State”.

201. Generally, the Code of Criminal Procedure provides that, where persons interviewed state that they cannot read, an interpreter or a police officer will read and translate into their languages. In the event of refusal to sign the statement, that is noted upon it. The police officer may call in an interpreter. If the latter is not a sworn interpreter, he or she takes an oath faithfully to translate the statements of the persons heard.

202. Accordingly, the Illicit Trafficking in Migrants Act stipulates that, notwithstanding the prescribed sentences, the criminal courts have jurisdiction over offences connected with trafficking in migrants and that the time-limits set out in the Code of Criminal Procedure are applicable to offences set forth in the Act.

203. The decision to identify the persons involved in an offence set forth in the Act is taken by the public prosecutor of the place in which the offence is presumed to have been committed, who supervises the proceedings. The purpose of such an operation must be to gather evidence of an ongoing offence and to identify all those involved in it in order to prosecute them. Moreover, under article 24 of the Act, “the Minister of Interior may grant a visa or residence permit to a trafficked migrant in order to facilitate the investigation into and/or prosecution for an offence under this Act”.

204. Regarding alternative measures, there are transit centres that receive migrants for short stays, generally either while their situation is regularized (if this does not take place, they are expelled) or to prepare for their voluntary repatriation, if they have expressed that wish.

205. As for remedies, challenges to administrative decisions are brought before the State Council, which decides upon the lawfulness of administrative acts. The ordinary law is applicable to the facts giving rise to criminal prosecutions.

- 14. Please provide information on the detention centres in which migrant workers are placed, and on the conditions of detention, and state, in particular: (a) whether persons detained for immigration-related reasons are systematically separated from ordinary detainees; (b) whether women are separated from men; and (c) whether women detainees are supervised by female guards.**

206. There are no detention centres specifically for migrant workers, but there are holding centres specifically for them in Agadez, Arlit and Dikou.

207. People detained for immigration-related reasons are held in the same conditions as ordinary law detainees.

208. Women are separated from men in all prisons in the Niger.

209. In prisons that have female guards, women are supervised by them.

- 15. Please provide up-to-date information, including disaggregated statistical data, on undocumented and irregular migrant workers and their families who have been expelled or who are subject to deportation proceedings. Please also state whether the State party's national legislation prohibits collective expulsion.**

210. No up-to-date statistics are available.

211. National legislation makes no provision for collective expulsion. Nonetheless, chapter 5 of Decree No. 87-076 of 18 June 1987 regulating foreigners' entry to and residence in the Niger makes provision for *refoulement* and expulsion.

212. Articles 31ff provide for cases in which foreigners can be expelled. If a foreigner is not in possession of the documents referred to in article 2 of the decree, an expulsion order is issued by the Minister of Interior setting out the grounds for expulsion, and the person concerned is informed of this by the local police authorities. The expulsion order may be the subject of a stay of execution or simply deferred by the Minister of Interior where new arguments that justify this are produced by the person concerned.

213. The ECOWAS Protocol on free movement of persons in the context of the regional integration process recognizes that States members have a right to conduct collective expulsions of migrant workers and members of their families who have lawfully entered the member's territory. They may be expelled for reasons of national security and morality. The Niger has never resorted to such a practice, however.

- 16. Please provide information on measures taken to ensure that:**

- (a) Migrant workers and members of their families are only expelled from the territory of the State party pursuant to a decision taken by a competent authority following a procedure established by law and in conformity with the Convention, and that this decision can be reviewed on appeal;**

- (b) Pending such appeals, persons subject to expulsion have the right to request a stay of the expulsion decision, and that such appeals have a suspensive effect.**

214. Migrants are subject to protection and assistance measures in accordance with articles 25 to 30 of the Illicit Trafficking in Migrants Act. These measures concern, among others things, health, security, child education, and resort to the courts to exercise their right to compensation.

215. Judicial expulsion can only take place following a conviction that orders it if there are grounds connected with the violation of the law or regulations in force. If it is an administrative measure, articles 2^{ff} of Decree No. 87-076 of 18 June 1987 regulating foreigners' entry to and residence in the Niger set out the conditions foreigners must fulfil to reside in the Niger: a passport with a Niger visa and an international vaccination certificate.

Article 23

17. **Please provide detailed information on the consular services provided by the State party to nationals of the Niger working abroad and members of their families, including those in an irregular situation, and in particular those who are victims of abuse, deprived of their freedom and/or subject to expulsion. Please state whether migrant workers and their families living in the Niger can request the protection and help of the consular or diplomatic authorities of their State of origin in the event of violations of rights recognized under the Convention, particularly in cases of arrest, detention or deportation proceedings. Please provide the Committee with some practical examples or real-life experiences.**

216. The Niger's various diplomatic missions and consulates abroad offer consular services to all Niger nationals living abroad, regardless of their migration status. These services include:

- Issuing civil status documents (birth, marriage and death certificates) in accordance with Decree No. 2008-189/PRN/MI/SP/D of 17 June 2008 setting out the procedures for applying Act No. 2007-30 of 3 December 2007 on the civil status system in the Niger;
- Issuing consular cards and national identity cards;
- Issuing passes to nationals without a passport or whose passport has expired and who wish to return to the Niger;
- Transferring passport applications for issuance in the Niger;
- Protecting Niger nationals and their property.

217. Migrant workers and their families living in the Niger may request the protection and help of the consular or diplomatic authorities of their State of origin in the event of violations of rights recognized under the Convention, particularly in the event of arrest, detention or deportation proceedings.

Articles 25 to 30

18. **Please provide detailed information on the measures taken, including mechanisms for legal protection of the right to work and for enforcement of the law, to safeguard in practice the right of migrant workers to equal treatment, particularly in the agriculture, mining and domestic work sectors, in terms of pay and employment and working conditions (overtime, working hours, weekly rest, paid leave, social security, health, termination of the employment contract, minimum wage, etc.), whether they are in a regular or an irregular situation. Please also indicate whether national laws concerning the level of remuneration and working conditions are in conformity with the ILO Equal Remuneration Convention, 1991 (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).**

218. The provisions of the Employment Code enshrine fundamental rights at work with no distinction between nationals and migrant workers. The Code applies to all workers regardless of nationality.

219. In the Niger, there is no discrimination in respect of:

- Access to vocational training;
- Access to jobs and the different occupations;
- Conditions of employment.

220. Article 5 of the Employment Code provides: “Without prejudice to the provisions of this Code and any other legislative or regulatory text protecting women and children and provisions relating to the status of foreigners, an employee’s sex, age, national extraction, social origin, race, religion, colour, political or religious views, disability, HIV-Aids, sickle cell disease, membership or non-membership of a trade union or trade union activity shall not be taken into account by any employer when making decisions relating, in particular, to recruitment, the conduct and distribution of work, staff development, advancement, promotion, remuneration, allocation of social benefits, disciplinary measures or termination of employment. Any provision or measure contradicting this shall be null and void.”

221. Regarding migrant workers’ right to equal treatment, article 158 of the Employment Code stipulates that “all employers shall ensure that for equal work or work of equal value employees shall be remunerated equally, irrespective of their origin, sex, age or status”.

222. Moreover, article 159 adds that “the various components of remuneration shall be based on the same standards for men and women. Occupational categories and classifications and criteria for promotion shall be the same for both sexes. In all cases, performance evaluation shall be based on objective criteria relating primarily to the nature of the tasks involved in the job”.

223. With regard to penalties, article 338 provides: “an employer who takes into consideration sex, age, national extraction, social origin, race, religion, colour, political or religious views when making decisions relating, in particular, to recruitment, the conduct and distribution of work, staff development, advancement, promotion, remuneration, allocation of social benefits, disciplinary measures or termination of employment shall be liable to a fine of from five hundred thousand (500,000) to two million (2,000,000) CFA francs and one (1) to five (5) years’ imprisonment or only one of these penalties”.

Articles 31 to 33

19. **Please provide information on measures taken to ensure that, during and upon termination of their stay in the State party, migrant workers and members of their families have the right to transfer their earnings and savings and their personal effects and belongings. Please provide information on measures taken to facilitate the transfer of such funds and in particular to minimize the cost of such transfers.**

224. No specific legislation regulates the transfer of migrant workers’ funds or belongings to their country of origin. Nonetheless, certain categories of workers, such as those with an employment contract, can transfer their earnings to their country of origin without difficulty. In practice, transfers may be sent through formal or informal channels. The official transfer channels include bank deposits, bank transfers, postal transfers, transfers through international (Western Union, MoneyGram, Wari, etc.) and national (Niger-Post, Al Izza, BNIF, AFOUA) express networks, transport companies, electronic transfers through mobile phone networks.

- 20. Please describe any measures taken to inform migrant workers transiting through or residing in the Niger, and members of their families, of their rights and obligations in the State party, and to give them access to clear information on immigration procedures, including the conditions governing their admission, stay and any income-generating activities in which they may engage.**

225. The Niger has set up a reception, advice and information office in the Ministry of Foreign Affairs, Cooperation, African Integration, and Niger Nationals Abroad. Its task is to inform candidates for immigration about the migration process and make them aware of the risks of illegal migration.

226. Pages on the Foreign Ministry website provide as much information as possible about Niger nationals abroad, including their profiles and especially those who wish to bring their expertise to the Niger, for example, university teachers to give lectures.

227. It is important to emphasize that the responsibilities of the National Employment Agency, which comes under the Ministry of Employment, include ensuring that employment contracts drawn up for foreign workers are lawful.

4. Part IV of the Convention

Article 40

- 21. Please provide information on the legislative measures taken to guarantee migrant workers and members of their families the right to form and participate in the leadership of associations and trade unions, in accordance with article 40 of the Convention.**

228. Freedom of association and the right to form trade unions are guaranteed in the Niger. Article 9 of the Constitution provides that: "Pursuant to the freedom of association herein guaranteed, political parties, groups of political parties, unions, NGOs and other associations or groups of associations may be formed freely, provided that they comply with the laws and regulations in force..."

229. The Employment Code affirms the right of persons engaged in the same, similar or related occupations involved in the production of specific goods or those in the same liberal profession to form a trade union. They are equally free to join a trade union of their choice in the context of their occupation.

230. The only restriction derives from article 190, which stipulates that "persons responsible for the organization or leadership of a trade union must be Niger nationals and in possession of their civil and political rights in accordance with the provisions of the laws on the electorate governing them. Provided that they are likewise in possession of these rights, foreigners legally resident in the Niger for at least three years may also take part in administration and management functions. The three-year period does not apply to nationals of States that have concluded agreements stipulating reciprocity with regard to trade union matters or that have national legislation that allows access by foreigners to union functions without a prior three-year residence period. In such cases, the period is either waived or reduced to the period that appears in the agreement or the national legislation".

Articles 43 and 45

- 22. Please provide information on the measures taken by the State party, including legislation, to ensure that migrant workers and members of their families enjoy equality of treatment with nationals regarding access to educational and/or vocational**

training institutions and services, health services, housing and cultural life. Please also provide information on the measures taken by the State party to encourage the integration of children of migrant workers in the national education system.

231. Act No. 98-12 of 1 June 1998 on the Niger education system does not discriminate against the children of migrant workers, article 8 stating clearly that “Everyone has the right to education regardless of age, sex, or social, racial, ethnic or religious origin”. The children of migrant workers enjoy the same education as nationals without discrimination. They are automatically guided to the higher levels if they are admitted to them, unless the migrant parent wishes their child to study elsewhere.

232. As for enrolment, the Niger is in line with the provisions adopted by the Council of Ministers of the West African Economic and Monetary Union in the directive that provides that students from any member State shall benefit “throughout the territory of the Union from the right to attend public higher education institutions in conditions similar to those provided for nationals of the host country”.

233. Regarding housing, the Rental Leases Code makes no distinction between migrants and nationals.

234. All groups of people living in the territory of the Niger have access to health services without discrimination. Migrant workers and the members of their families enjoy the same advantages as nationals regarding preventive care (vaccination, distribution of mosquito nets, family planning, etc.) and treatment (treatment of various illnesses). Article 25 of Act No. 2015-36 of 26 May 2015 on illicit trafficking in migrants provides: “trafficked migrants shall have the right to receive the emergency medical care necessary to save their lives or avoid irreparable damage to their health, on the basis of equal treatment with nationals of the State. Such emergency medical care shall not be refused to them on the grounds of any irregularity regarding entry or residence in the State”.

235. It should be noted, however, that some exemptions from payment of medical costs, such as free caesareans and free treatment of female cancers, apply only to nationals.

Articles 46 to 48

- 23. Please state whether prevailing laws and the measures in place to enforce compliance with those laws allow migrant workers, when they leave the territory of the State party, to continue receiving the social benefits and allowances for which they have paid contributions. Please also provide information on the legal framework for guaranteeing the right of migrant workers to move their earnings and savings from the State of employment to the State of origin, and on measures taken to reduce the cost of remittances sent by nationals of the Niger working abroad to the State party in order to encourage the use of formal channels. Please also indicate whether the State party has concluded bilateral or multilateral agreements permitting the transfer of family allowances meant for children of migrant workers not residing in the State party.**

236. When migrant workers who have been employed in the formal sector leave the Niger they continue to receive benefits in accordance with the agreements between the National Social Security Fund and countries of origin. Generally, protection of the rights of migrants leaving or returning to the Niger is governed by agreements between the various ministries of employment of countries of origin and destination. Nonetheless, the lack of up-to-date statistics from countries that have signed such agreements means we are unable to take stock of the different bilateral and multilateral agreements.

237. Article 35 of the Multilateral Social Security Convention of the Inter-African Conference on Social Security (CIPRES) (ratified on 18 March 2009) provides: “workers subject to the legislation of one contracting party shall have the right, for the members of their families who reside in the territory of another contracting party, to the family benefits provided for by the legislation of the first contracting party as if the family members resided in the territory of that contracting party”.

238. Article 49 (4) of the administrative agreement of the same convention provides: “the worker concerned shall inform the competent institution through his or her employer of any change in the situation of the members of his or her family likely to affect the right to benefits, in particular transfer of residence and any change in the number of family members for whom benefits are due”.

239. Article 14 of the treaty between France and the Niger provides: “salaried workers of French or Niger nationality working in France or in the Niger may, under certain conditions, claim family benefits for their children who live in the territory of the other party”.

240. In application of article 8 of the African and Malagasy Common Organization convention and similar articles of other conventions ratified by the Niger (Air Afrique agreement, February 1990; CIPRES, 18 March 2009), the National Social Security Fund has concluded payment agreements with Benin (in 1991), Burkina Faso (2001) and Côte d’Ivoire (1995) to transfer social benefits for migrant workers and members of their families.

241. On principle, in the event of expulsion, the rights of migrants are respected within the limits of the various texts on protection of the rights of migrant workers.

242. The status of Niger migrants in Africa working in the informal sector does not enable their rights to be protected if they return to the Niger.

Article 49

24. **According to the information received, national legislation requires separate residence and work permits, with work permits issued only on presentation of a contract of employment endorsed by the Ministry of Labour. Please state whether migrant workers can be sure of receiving a residence permit valid for at least the period during which they are authorized to engage in paid employment. Please also provide information on measures taken to ensure that migrant workers in the State party are allowed to freely choose their remunerated activity without being regarded as in an irregular situation, and that they retain their residence permit if their remunerated activity terminates prior to the expiration of their work permit or similar authorization. Lastly, please provide information on measures taken to ensure that they are allowed to keep their residence permit at least for a period corresponding to that during which they may be entitled to unemployment benefits.**

243. Under article 20 of Decree No. 87-076/PCMS/MI/MAE/C of 18 June 1987 regulating the conditions of entry and residence of foreigners, “all foreigners applying for a residence permit shall be issued with a provisional receipt bearing the signature of the issuing authority, the stamp of the police station where the application was made...”. The residence permit is renewed every two years. For citizens of the ECOWAS area, the residence permit is renewable every three years.

244. Migrant workers can be sure of receiving a residence permit valid for at least the period during which they are authorized to engage in paid employment. Accordingly, migrant workers enjoy the right to choose their jobs freely, subject to restrictions imposed

by the Government of the Niger on access to limited categories of jobs, functions or activities, where interests of State so require.

Articles 51 and 52

25. **The Committee notes that Decree No. 87-36 of 12 March 1987 lists professional activities prohibited or subject to authorization for foreigners. Please provide additional information on that legislative provision and any other issued in the State party with a view to restricting access to certain job categories, and specify the types of activities involved. Please also state the conditions for obtaining authorization to engage in paid work, the types of work covered and the numbers of permits granted during the past five years, as well as the number of applications rejected and the reasons for rejection.**

245. There is no legislative provision other than the 1987 decree, which remains in force. A memorandum has been issued to simplify the cumbersome National Surveillance Directorate formalities for obtaining permission to stay and remain up-to-date with permission for foreigners to engage in the activities.

246. Some occupations are closed to foreigners in the Niger:

- Arms and ammunitions dealer;
- Immigration or emigration agent;
- Keeper of a private police agency;
- Financial investment office;
- Pilgrim convoy organizer.

247. Others require authorization by the Ministry of Trade, the Plan, Public Works and Housing, including:

- Commercial middlemen (brokers, agents, etc.);
- Industrial and craft companies;
- Public transport companies;
- Travel agencies;
- Hotelier;
- Import-export trade;
- Chartered accountants;
- National tourist guide;
- Licensed supplier of transport materials;
- Engineering consultancy;
- Architectural office;
- Public works company.

248. In order to work in a regulated occupation, the individual must possess either an employment contract stamped by the competent department of the Ministry of Employment or an authorization from that department, if he or she wishes to occupy a salaried post, or authorization issued by the relevant Ministry, if he or she intends to pursue an unsalaried occupation. The application must include:

- The letter of application for a visa signed by the employer;
- Five copies of the employment contract signed by both parties (employer and employee);
- The employee's CV;
- Certified copies of either work certificates or diplomas or both;
- The employee's certificate of nationality or passport;
- The employee's birth certificate;
- The criminal record dated within the past three months;
- A medical certificate dated within the past three months;
- Five identity photos of the employee;
- A description of the post.

249. Grounds for refusal are: there are nationals with the necessary skills or qualifications, and application for a visa when the person concerned was already in the country.

250. In the last two years, 1,074 employment visas have been issued, 634 in 2014 and 440 in 2015.

Article 54

26. **Please provide information on measures taken by the State party to ensure that migrant workers enjoy equality of treatment with nationals of the Niger in respect of protection from dismissal, unemployment benefits, access to public work schemes for combating unemployment and access to alternative employment in the event of loss of work or termination of other remunerated activity.**

251. Regarding protection from unemployment, foreign workers enjoy equal treatment with nationals under the Employment Code. In principle, foreign workers, whatever their legal status, enjoy all the rights and duties for which provision is made in employment legislation. According to the National Employment Agency, access to alternative employment in the event of losing the job or termination of other remunerated activity, and the programmes it manages to combat unemployment are for nationals. In the event of loss of job or termination of other remunerated work, the employment legislation provides that foreign workers may be recruited by another employer if the skills are not available on the labour market. Otherwise, express authorization from the Employment Minister is required.

5. Part V of the Convention

Article 59

27. **The Committee notes the prevalence of circular and temporary migration by nationals of the member States of the Economic Community of West African States to cover labour shortages in neighbouring countries. Please provide information on the measures taken by the State party to ensure that seasonal or temporary workers benefit from treatment equal to that of national workers.**

252. Under the provisions of the Employment Code, there is no distinction between nationals and seasonal or temporary workers.

6. Part VI of the Convention

Articles 64 to 68

28. **Please indicate whether the State party has undertaken consultations and ratified agreements on cooperation with other States parties, particularly countries of origin, transit and destination, with a view to promoting sound, equitable and humane conditions in connection with international migration of workers and members of their families. If so, please provide detailed information. Please also indicate to what extent these agreements meet the social, economic and cultural needs of migrant workers and members of their families and provide information on the consequences of these migrations on the communities concerned.**

253. The first part of this question refers to the reply given to issue 8 (a), in particular the role played by the joint commissions of subregional organizations. Agreements signed by the Niger with other countries have to be examined on a case-by-case basis but, generally speaking, these agreements always take into account the human rights of migrant workers, which include their social, economic and cultural rights. As for the second part of the question, the Niger has included such rights in its legislation, thus enabling migrant workers to form cultural associations, join a trade union, enjoy the right to health, education and social protection, and to engage in an economic activity independently.

254. There is no information on possible consequences of migrations on the communities concerned because of the integration policy conducted by the Niger.

29. **Please indicate the measures taken by the State party to ensure that the rights of migrant children, in particular those who are unaccompanied and/or in an irregular situation or are transiting through the State party, are respected and that they are protected from all forms of economic exploitation. Please indicate the measures taken or envisaged by the State party to protect children against the worst forms of labour, including through the implementation of the ILO Worst Forms of Child Labour Convention, 1999 (No. 182), and the strengthening of the labour inspection system. Please also describe the measures taken to promote conditions that facilitate the reception and reintegration of migrant children and their families upon their return to the State party.**

255. The measures taken by the Niger to ensure that the rights of migrant children, in particular those who are unaccompanied and/or in an irregular situation or who are transiting through the State party, are respected and that they are protected from all forms of economic exploitation and the worst forms of child labour are:

- Act No. 2014-72 of 20 November 2014 on the jurisdiction, responsibilities and functioning of the juvenile courts.
- Supervision of the period of detention, simplified criminal procedure, respect of the right to a defence, and the mediation and compensation that can be implemented before any prosecution of a child are all child protection measures that do not involve any form of discrimination (sex, race, region, religion, social origin, nationality, etc.).
- The National Steering Committee against Child Labour in the Niger, established by Order No. 0602/MF/P of 7 May 2012, is responsible for combating the worst forms of child labour. The Committee is composed of representatives of the State, employers, workers, civil society and development partners (as observers).
- Upgrading the National Unit to Combat Child Labour to a division of the Employment Directorate.

- The national consultation framework for those involved in preventing/reducing child labour in agriculture. Established by an order of 23 May 2015, its purpose is to make an inventory of the worst forms of child labour in agriculture, remove children from such work, protect them from reprisals and ensure their readjustment and social reintegration according to their needs.
- The national childhood protection committee, which brings together the Ministry of Justice and the ministry responsible for child protection, national NGOs, United Nations agencies and technical and financial partners (the last two sit as observers).

256. The protection of childhood is defined as prevention of and response to the abuse, negligence, exploitation and violence of which children are victims. Protection is based on principles affecting all children: impartiality, neutrality and accountability. Protection therefore concerns all children: unaccompanied minors, children who are separated from their families, in an irregular situation or in transit. All these measures fall within the framework of implementation of the United Nations and ILO conventions on the rights of the child.

257. In the final analysis, there are no specific measures to protect the rights of migrant children.

258. The measures taken by the State to ensure that the rights of children are respected include the Illicit Trafficking in Migrants Act, chapter IV of which enshrines protection and assistance measures for migrant adults and children.

259. In order to ensure the protection of children from the worst forms of child labour, the State adopted Order No. 2010-86 of 16 December 2010 on trafficking in persons [which] prohibits the worst forms of child labour. Act No. 2012-45 of 25 September 2012 on the Employment Code (art. 107) also prohibits the worst forms of child labour in these terms:

“The worst forms of child labour shall in all cases be prohibited. The worst forms of child labour are:

1. All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
2. The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
3. The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs;
4. Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.”

260. The National Agency to Combat Trafficking in Persons has conducted a wide-ranging awareness-raising campaign in three national languages and French through the public and private media in order to combat effectively the worst forms of child labour.

261. As for penalties, article 343 provides that “any employer or any person found guilty of or complicit in violating the prohibition on the worst forms of child labour shall be punishable by a fine of from five million (5,000,000) to ten million (10,000,000) francs and two (2) to five (5) years’ imprisonment or only one of these penalties”. In the event of a second offence, the fine is doubled and the imprisonment increased from five (5) to ten (10) years.

- 30. Please describe the measures taken by the State party to prevent and eliminate irregular migration, including of women and unaccompanied children, and particularly measures to effectively detect the movement and illegal or clandestine employment of migrant workers and members of their families. Please also provide information on bilateral and multilateral agreements, policies and programmes aimed at strengthening the regular migration channels and provide relevant responses to the structural causes of irregular migration, such as violence, insecurity, political problems and poverty or vulnerability to natural disasters. Please provide information on prevention campaigns developed by the State party to combat the dissemination of misleading information relating to emigration and immigration, and on the State party's programmes to educate its nationals, including children, about the dangers of irregular migration.**

262. In order to combat illicit migration effectively, an advice and information office has been set up in Agadez to make candidates for illicit immigration aware of the risks they run. In addition, there are the ACROSS Sahara I and II projects, now called NIGERIM, and the pilot AENASS project. All these projects fall within the framework of border management. Moreover, a national strategy to counter illicit migration is in preparation.

263. The migration of women to the Niger is a matter of concern because of the tragedies it engenders.

264. In response to the repeated tragedies connected with migration across the desert in the country, some officials have undertaken field trips to speak with the people concerned and the defence and security forces. For example, from 27 to 30 May 2014, a government mission led by the Minister of Justice went to Arlit and Agadez. Another mission, led by the Minister of Population, Advancement of Women and Child Protection, went to the Zinder region, and to Kantché from 18 to 19 June 2014, in particular to meet the people, local authorities and partners to discuss the migration of women and children. The objective was to initiate social dialogue with all the social and occupational groups in the localities concerned.

265. Following these missions, the State, through the High Authority for Peace, conducted income-generating activities, such as cattle fattening, small businesses, etc. It is important to state here that the work of development partners supplements state efforts.

266. It should be recalled that the Niger has legislation on combating illicit migration that includes provisions to protect migrant workers and members of their families.

- 31. According to information received, the number of returns of migrant workers and members of their families to the State party is increasing, in particular because of the increasingly restrictive migration policies of the European States and the growing insecurity in the countries of North Africa, especially Libya. Please indicate the measures taken or envisaged by the State party, including the conclusion of cooperation agreements between the State party and States of employment, to facilitate the voluntary return of migrant workers and members of their families to their country of origin and to promote proper conditions for resettlement and social and economic reintegration.**

267. No practical measures have been taken or are envisaged by the State in the context of cooperation agreements on the voluntary return of migrant workers and members of their families.

268. The Niger has experienced forced returns only as a result of the various social and political crises in Libya and Côte d'Ivoire, which led to a mass return of around 263,000 people.

269. In response to the unexpected mass return, through Order No. 00042/PM of 24 March 2011, the Government put in place an Ad Hoc Committee responsible for coordinating and monitoring the situation of Niger nationals in Libya and Côte d'Ivoire.

270. The Committee is composed of all the state bodies, development partners and civil society organizations and is subdivided into four subcommittees:

- The reception and routing subcommittee, responsible for receiving and routing people arriving in territory of the Niger;
- The finance and resource raising subcommittee, responsible for raising the resources needed to receive people fleeing the fighting in Libya;
- The security subcommittee, responsible for identifying and directing migrants according to place of origin;
- The communication and information subcommittee, responsible for gathering and disseminating information.

271. In addition, a permanent secretariat was provided by the coordinator of the early warning system unit in the Office of the Prime Minister. This committee also works closely with the committees set up in the regions, districts and municipalities for the identification and social, political and psychological reintegration of migrants, in cooperation with development partners.

272. Through the national Ad Hoc Committee, the Niger raised around CFAF 1,422,664,950 for reception, catering, routing, security, communication and the functioning of the Committee.

273. The sum of \$3,746,548 from the United Nations Central Emergency Revolving Fund (CERF) was divided between IOM, the World Food Programme (WFP), WHO and UNICEF for the implementation of various activities in partnership with the State of the Niger.

32. **Please state whether the law makes it possible to punish all individuals, groups or entities that organize, provide or assist in organizing illegal or clandestine movement of migrant workers through or to the State party. In particular, please provide detailed information regarding the scope and the implementation of Order No. 2010-86 of September 2010 on trafficking in persons, as well as the Five-year National Action Plan to Combat Trafficking in Persons adopted in July 2014. Please describe in particular the measures taken or envisaged to address the gradual increase in the number of migrants in an irregular situation in the Niger, notably those in transit, a development stemming from the central role played by the country in regional migration because of its geographical location and the activities of networks organizing illegal emigration from West and Central Africa to other countries, particularly in Northern Africa and Europe.**

274. Article 2 of Act No. 2015-36 on illicit trafficking in migrants criminalizes individuals, groups or entities that organize, provide or assist in organizing illegal or clandestine movement of migrant workers through or to the State party.

275. The National Agency to Combat Trafficking in Persons, which is responsible for implementing the National Action Plan, has observed a significant change in understanding of trafficking in persons, both by those responsible for enforcing the law and by communities. Thus, in 2013, when the Agency asked 46 first instance courts in the Niger to produce figures on prosecutions for trafficking in persons, fewer than ten cases were reported in the whole country. In 2014, however, after massive awareness-raising

campaigns with traditional chiefs and religious leaders, the Agency found that 139 cases were pending before the courts.

276. The adoption of the Act on illicit trafficking in migrants to discourage smugglers, the establishment of a consultation framework on migration, awareness-raising campaigns targeting commercial haulage companies, courses for judges, the defence and security services and civil society players about migration, and the broadcast of sketches in the different national languages are all responses to the gradual increase in the number of migrants.

- 33. The Committee notes with concern the population displacements caused by the attacks by Boko Haram in northern Nigeria and southern Niger. Please provide information on the consequences of the atrocities committed by Boko Haram on the situation of migrant workers and members of their families in the State party, as well as on that of migrant workers from the Niger and members of their families living abroad, particularly in Nigeria. Please also describe the measures taken by the State party to protect migrant workers and members of their families from the atrocities committed by Boko Haram in the State party.**

277. The conflict with Boko Haram has led to mass population displacements on both sides of the border between the Niger and Nigeria. These essentially involve internally displaced Niger nationals, the return of Niger nationals who had settled in Nigeria fleeing atrocities committed by Boko Haram, and Niger refugees who have left their country following attacks by the terrorist group. There are 280,000 internally displaced persons and thousands of refugees from neighbouring countries. They have lost their property and jobs as a consequence of the situation.

278. Children have also been affected by conflict-related traumas that require psychological treatment, and they are subject to different kinds of privation as a result of lack of educational facilities (22 per cent of such children do not go to school), health care and recreational activities.

279. The measures taken by the State essentially involve re-establishing security (the protection of people and their property), reintegration assistance and support in the form of food and non-food parcels. These measures have been taken thanks to partners who have supported state action to manage the humanitarian crisis resulting from attacks by Boko Haram.

280. It is important to note that migrant workers and members of their families enjoy the same protection from Boko Haram atrocities as Niger nationals.

Article 69

- 34. Please provide information on measures taken to ensure that migrant workers and members of their families who are in an irregular situation in the State party are given the possibility of regularizing their situation in accordance with article 69 of the Convention. Please also describe the measures taken by the State party, including through bilateral and multilateral agreements, to improve the protection of its nationals abroad, both migrant workers and members of their families, whether in a regular or an irregular situation, in particular in Burkina Faso, Côte d'Ivoire, Nigeria, Libya, Algeria and Morocco, including efforts to promote the regularization of such persons' situations, taking into account the circumstances of their arrival, the length of their residence in the State of employment and other relevant considerations, in particular those related to their family status.**

281. The rights of migrants and their dependents in the ECOWAS area (Burkina Faso, Côte d'Ivoire, Nigeria, etc.) are guaranteed by ECOWAS protocols on the right of settlement and access to work in the different member States. Agreements between the employment ministries of the member States contribute effectively to the protection of migrant workers.

282. The Niger has no agreement with Libya, Algeria or Morocco on protecting the rights of migrant workers. In fact, migrant Niger workers usually work in the informal sector. Migrant workers in the formal sector are defended by the domestic law of host countries, however.

II. Additional information regarding the protection of all migrant workers and members of their families

In this section, the Committee invites the State party to briefly (three pages maximum) provide additional information regarding the protection of all migrant workers and members of their families with respect to:

(a) Bills or laws, and their respective regulations;

283. Order No. 2010-66 of 16 December 2010 on combating trafficking in persons is currently being revised to include prosecution of illicit trafficking in migrants.

(b) Institutions (and their mandates) or institutional reforms;

284. A directorate responsible for migration-related issues has been established in the Ministry of Foreign Affairs, Cooperation, African Integration and Niger Nationals Abroad, and there are plans to set up a directorate responsible for monitoring labour migration in the Ministry of Employment, Labour and Social Protection.

(c) Policies, programmes and action plans covering migration issues and their scope and financing;

285. The Economic and Social Development Plan 2012–2015 covers migration-related issues through sectoral action.

(d) Recent ratifications of human rights instruments, including ILO Convention No. 97 (1949) concerning migration for employment (revised), No. 143 (1975) concerning migrant workers and No. 189 (2011) concerning decent work for domestic workers;

286. The Niger has not yet ratified these conventions.

(e) Recent comprehensive studies on the situation of migrant workers and members of their families.

287. In 2010, the Institut Universitaire Européen conducted a study into “The general context of migration from, to and through the Niger”.

288. The National Statistics Institute has produced a report on migration by analysing the results of the 2012 population and housing census.

289. In 2013, a study was conducted on migrants in the Niger and Togo. It was commissioned by UNHCR and entitled “Migrants in distress: Analysis of situations and protection frameworks, the cases of the Niger and Togo”.

290. In April 2013, the Central Bank of West African States (BCEAO) commissioned a “Study on remittances of migrant workers to the Niger”.

291. In June 2014, the State commissioned a study with a view to developing a national migration policy.

III. Data, official estimates, statistics and other available information

1. Please provide updated disaggregated statistical data and qualitative information for the last three years (unless otherwise specified) on:

(a) The volume and nature of migratory flows in and from the State party for the period since the entry into force of the Convention for the State party;

292. Updated statistics for the last three years are not available but, according to IOM, the data recorded from 1 February 2016 to 30 June 2016 were:

- 218,618 migrants at the IOM reception centre in Agadez;
- 168,053 outgoing migrants and 580,584 incoming migrants.

293. Of these, 87 per cent were men and 13 per cent were women.

294. Children under 18 account for 9 per cent of the total migrant population.

295. These figures are an underestimate because they cover only some 20 operational border police posts out of about 40 over 5,000 km of border.

296. The table below shows the migration flows from the Niger to Libya and Algeria in June 2016.

| <i>Flow</i> | <i>Number of migrants</i> | <i>% of total</i> |
|----------------------------------|---------------------------|-------------------|
| The Niger to Libya via Séguédine | 147 060 | 67 |
| Libya to the Niger via Séguédine | 44 673 | 20 |
| The Niger to Algeria via Arlit | 13 474 | 6 |
| Algeria to the Niger via Arlit | 13 411 | 6 |

(b) Migrant workers in detention in the State party and migrant workers who are nationals of the State party and who are detained in the State of employment, and state whether these detentions are immigration-related;

297. Under the Criminal Code, immigration is not a criminal offence. Nonetheless, migrants who have committed an offence under the criminal law lay themselves open to prosecution and sentencing under the ordinary law.

(c) Migrant workers and members of their families that have been expelled by the State party;

298. Article 16 of the Constitution prohibits deportation. This protects nationals and non-nationals alike and lays the perpetrators of such acts open to criminal prosecution.

(d) The number of unaccompanied migrant children or migrant children separated from their parents in the State party;

299. Of the 4,000 minors recorded at border posts on 30 June 2016, 53 per cent were unaccompanied.

(e) **Remittances by migrant workers who are nationals of the State party and who are working abroad;**

300. A survey commissioned by the Central Bank of West African States on money sent by migrant workers to the Niger in 2012 found that remittances were sent to persons practising a liberal profession (34.1 per cent), and to a lesser extent to persons not in employment (29 per cent) and employed persons (17.7 per cent). Students and craftsmen received 4.2 per cent and 3.1 per cent of remittances. A comparatively large proportion of remittances went to male-headed households. Almost CFAF 27 billion francs are sent to such households, accounting for 62 per cent of total funds received. The economic reasons for the remittances essentially concern support for staples (52.1 per cent). “Other investments”, including purchase of fields and starting a business, account for 17.6 per cent of remittances. Smaller proportions go to family occasions (8 per cent) and savings (7.6 per cent). Investments in property account for only 4.2 per cent of remittances. The remittances received are dominated by those from Côte d’Ivoire, which accounts for 15 per cent of the total, followed by Belgium (14 per cent) and Nigeria (12 per cent). Côte d’Ivoire does indeed receive many immigrants from the Niger, especially from the Tahoua region. The money received arrives regularly (55 per cent) and is recorded on a monthly (61.9 per cent), quarterly (19.5 per cent) six monthly (10.4 per cent) or annual (8.3 per cent) basis. Occasional remittances, which are often connected with special events, are estimated at 19.8 billion [francs]. A breakdown of remittances by gender shows that 53.8 per cent come from male-headed households and 46.2 per cent from female-headed households.

(f) **Reported cases of trafficking and smuggling of migrants, investigations, prosecutions, and the sentences imposed on perpetrators (disaggregated by sex, age, nationality and purpose of trafficking);**

301. According to the statistical yearbooks of the judicial system for 2010–2014, 139 cases of trafficking were referred to the various courts of the Niger. These cases have led to criminal prosecution and investigations are ongoing. A single case involving several perpetrators has led to a conviction. A breakdown of the data reveals that 79 women and 60 men have been accused of trafficking in persons.

302. There are no figures for cases of trafficking in migrants.

(g) **Legal assistance services provided to migrant workers and members of their families in the State party and to nationals of the State party working abroad or in transit in a third State.**

303. No data is available on the number of migrant workers and members of their families who have received legal assistance.

2. **Please provide additional information on significant progress made and measures considered by the State party to be a priority to implement the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, including measures envisaged to make the declaration provided for in article 76 of the Convention recognizing the competence of the Committee to receive and consider communications by States parties and/or the declaration provided for in article 77 of the Convention recognizing the competence of the Committee to receive and consider communications from or on behalf of individuals.**

304. The Niger has ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families without entering any reservations, but it has not made the express declaration provided for in articles 76 and 77 of the Convention.

Conclusion

305. At the end of this report drafted on the basis of the list of issues drawn up by the Committee, it can be seen that the Niger has made remarkable efforts to ensure the protection of the rights of all migrant workers and members of their families.

306. Analysis of the legal and institutional framework on migration has shown that significant progress has been made, in particular with the adoption of the Illicit Trafficking in Migrants Act and the current review of the 2010 Order on trafficking in persons in order to include illicit trafficking in migrants. The Employment Code also favours protection of the rights of migrant workers.

307. Furthermore, article 42 the Constitution enshrines the protection of the rights of Niger citizens abroad and of foreign nationals residing in the Niger.

308. At the institutional level, the two bodies particularly responsible for the issue of trafficking and migration (the National Agency to Combat Trafficking in Persons and the National Coordinating Commission against Trafficking in Persons) have reported encouraging results in recent years.

309. It should be emphasized that, despite the progress the Niger has made, more needs to be done in the field of migration in general and protecting the rights of all migrant workers and members of their families in particular.

310. Migration is a matter of concern to the Government because of the country's geographic location. The country is a crossroads with long borders with Libya and Algeria and ECOWAS countries, the nationals of which it regularly receives in transit to other countries in search of a better future.

311. Niger nationals living abroad are also a major concern because of the collective expulsions of which they are sometimes victims in some host countries. These expulsions, which do not involve compensation, put into sharp relief the problem of protecting migrant workers and their property.

312. Aware of these challenges, with the support of its partners the Niger is committed to developing practical initiatives that clearly help to improve the protection of all migrant workers and members of their families.
