

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report

Universal Periodic Review: 3rd Cycle, 38th Session

NIGER

I. BACKGROUND INFORMATION

Niger acceded to the *1951 Convention relating to the Status of Refugees* in 1961, following its independence, and ratified the *1967 Protocol relating to the Status of Refugees* in 1970 (hereinafter jointly referred to as the *1951 Convention*). Moreover, Niger ratified the *1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa* (the *OAU Convention*) in 1971. Niger also acceded to the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) in November 2014 and to the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*) in 1985, with reservations in respect of Articles 11, 14 and 15. In addition, Niger ratified the *2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa* (the *Kampala Convention*) in 2012, and was the first country in Africa to adopt a national law on internal displacement¹ (*Loi n° 2018-74 du 10 décembre 2018 relative à la protection et à l'assistance aux personnes déplacées internes*²).

The key legislative act regulating asylum in Niger is the *Loi n° 97-016 du 20 juin 1997 relative au statut des réfugiés* and its *Décret d'application n° 98-382/PRN/MI/AT du 24 Décembre 1998*. UNHCR opened a country representation in Niger in 2012 following the outbreak of the Mali crisis and signed an "Accord de Siège" in 2014. UNHCR is present in the main refugee hosting regions: Niamey, Tahoua, Tillabéri (including Ouallam, Abala and Ayorou), Diffa, Agadez and Maradi. The Government of Niger and UNHCR have signed a Memorandum of Understanding on 20 December 2017³ establishing an Emergency Transit Mechanism in Niger for vulnerable refugees, including those stranded in detention centres in Libya, so they can enjoy life-saving protection, assistance and solutions.

As of 1 July 2020, Niger hosted 532,794 persons of concern (PoCs) to UNHCR, including 225,665 refugees, 3,790 asylum-seekers, 265,522 Internally Displaced Persons (IDPs), 34,300 returnees and 3,517 other persons of concern. Of the total number of the refugee and asylum-seeker population, children aged 5-11 years old constitute the majority (30%). There are 122,060 females, 107,395 males and 3,467 persons with disabilities.

Malian/Sahel situation: The *ARRETE N°142/MI/SP/D/AR/DEC-R* of 6 March 2012 grants *prima facie* refugee status to Malians who are victims of the armed conflict in Northern Mali.

¹ UNHCR, Niger Becomes First African Country to Adopt a National Law for Protection and Assistance of Internally Displaced People, 7 December 2018, <https://www.unhcr.org/afr/news/press/2018/12/5c0a29eb4/niger-becomes-first-african-country-to-adopt-national-law-for-protection.html>

² <https://www.refworld.org/docid/5ce404914.html>

³ The Pledge on the continuity of the Emergency Transit Mechanisms made by Niger at the first World Refugee Forum was fulfilled by 24 February 2020, a Memorandum of Understanding extending the Emergency Transit Mechanism for another two years.

As a result, Malian refugees are recognized automatically after a short screening to confirm their nationality. Malian refugees are hosted in Tillabéri region (Ayorou, Abala and Ouallam), Tahoua region (refugee-hosting zone of Intikane) and in urban areas (mainly Niamey and Ayorou). In addition to Malians, there are 3,514 Burkina Faso nationals who fled insecurity and human rights abuses committed by Non-State Armed Groups (NSAGs) and settled down in villages along the border between Niger and Burkina Faso in the Tillabéri region.

Nigerian situation: The ARRETE N°00571/MISP/D/ACR/SG/DGECM-R of 9 July 2020 grants *prima facie* refugee status to Nigerian refugees who are victims of generalized insecurity in certain states of North Niger (Borno, Yobé, Adamawa, Sokoto, Katsina, and Zamfara). It supersedes the ARRETE n°806/MI/SP/D/AC/R/DEC-R of 4 December 2013 which accorded temporary protection. Most of the Nigerian refugees fled to Niger as a result of the Boko Haram insurgency. The first wave of Nigerian refugees arrived in 2013 in Niger's Diffa region and are accommodated in a range of spontaneous sites as well as in the 'Sayam Forage' refugee camp. As of May 2019, there were new influxes in Niger's Maradi region of more than 35,000 Nigerians fleeing extreme violence generated by non-states armed groups whose exact motives and structures remain unclear. These refugees are mainly hosted by Nigerien families living along the border in seven districts as well as in three 'opportunity villages' (Garin-Kaka, Dan Dadji-Makaou, Chadakori) that have been developed in line with the Out-of-camp Policy.

Central Mediterranean situation:

- *Agadez:* A UNHCR Sub-Office was established in Agadez to provide protection and assistance to persons of concern to UNHCR identified within mixed movement flows. As of 1 July 2020, there are 1,401 PoCs in Agadez, including 319 refugees and 1,802 asylum-seekers mainly from Sudan.
- *Emergency Transit Mechanism:* This program was established in November 2017 following a Memorandum of Understanding (MoU) signed between UNHCR and the Government of Niger. As part of this mechanism, vulnerable PoCs identified in Libya are evacuated to Niger where they receive life-saving protection and assistance pending the identification of suitable durable solutions including resettlement to a third country. To date, 3,208 PoCs have been evacuated from Libya out of whom 2,457 have been resettled to a third country.

Other nationalities: Asylum-seekers of other nationalities undergo an individual Refugee Status Determination procedure carried out by the *Commission Nationale d'Eligibilité au Statut de Réfugié (CNE)*. The majority of asylum-seekers and individually recognized refugees other than Malians and Nigerians are from Sudan, Chad and Cameroon.

Niger citizens returning from Nigeria: 34,300 Niger citizens were living in North-Eastern Nigeria for socio-economic reasons. The violence in North-Eastern Nigeria forced many Niger citizens to flee Nigeria along with Nigerian refugees seeking refuge in Niger. The returning Niger citizens (who mainly originate from Diffa and Maradi regions, and in many cases, had been living for decades in Nigeria), now find themselves in an IDP-like situation. They are being hosted in an out-of-camp approach with reintegration initiatives.

Internally Displaced Persons: IDP matters are regulated by the *Loi n° 2018-74 du 10 décembre 2018 relative à la protection et à l'assistance aux personnes déplacées internes*. Since 2013, 102,726 civilians have been internally displaced in the Diffa region as a result of spill over of the Boko-Haram conflict whereas spill over from the conflict in Mali has, since 2018, led to new internal displacement of 84,155 persons in Tillabéri and Tahoua regions bordering Mali. In response to the security situation, the Government of Niger declared a State of Emergency in 2017 which has been regularly extended in time and expanded in new geographic areas.

Stateless Persons: Statelessness concerns in Niger arise in the context of the Diffa situation. Amongst the mixed influx of Niger citizens and Nigerian citizens seeking refuge from the

violence in North-Eastern Nigeria, about 80 per cent do not possess any ID documents. The situation is the same in Tillabéri and Tahoua regions, where forced displacements as a result of the insecurity and the aftermath of the border dispute between Niger and Burkina Faso have put undocumented populations at risk of statelessness.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Positive developments linked to 2nd cycle UPR recommendations

Linked to 2nd cycle UPR recommendation no. 120.125: “Guarantee mechanisms of access to justice for the most vulnerable sectors of the population (Mexico)”

In Niger, refugees and asylum-seekers have the right to access fair legal and judicial procedures under the same conditions as Nigerien nationals and other non-nationals. As such they have access to the two existing systems: the formal court system and the customary courts and traditional mediation. The National Association of Legal and Judicial Assistance (ANAJJ) and other local non-governmental organizations are providing legal aid to refugees. These organizations have been successful in monitoring and responding to cases such as detention but have significant budgetary constraints and are mostly relying on UNHCR’s support to carry out their activities.

Linked to 2nd cycle UPR recommendation no. 120.162: “Enhance the protection of migrants and refugees by implementing the law on human trafficking and enhancing the operational capacities of the Commission Nationale d’Eligibilité au Statut de Réfugié and the Agence Nationale de Lutte contre la traite des Personnes (Germany)”

In May 2015, the Government of Niger passed a law prohibiting the smuggling and trafficking of migrants. In order to ensure that persons of concern to UNHCR are identified in the mixed migration flows are protected, UNHCR Niger has reinforced its collaboration with IOM⁴, the local and national authorities as well as the identification and referral mechanisms for persons in need of international protection. Several capacity building initiatives have taken place with the security forces at the entry points and the authorities regarding their responsibilities in the context of mixed movement flows and UNHCR’s mandate.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

Issue 1: Security from violence and exploitation

Linked to 2nd cycle UPR recommendation no. 120.66: “Further take measures in order to improve its legislation, policy and practice on gender equality and on prevention and response to gender-based violence (Portugal)”

Niger has ratified multiple international and regional instruments which prohibit sexual and gender-based violence (SGBV)⁵. At national level, article 8.2 of the Constitution provides that : *« l’égalité de tous devant la loi sans distinction de sexe, d’origine sociale, raciale, ethnique ou religieuse »* ; and article 22 indicates that : *« L’Etat prend les mesures de lutte contre les violences faites aux femmes et aux enfants dans la vie publique et privée »*. Furthermore, the

⁴ UNHCR and IOM signed an MoU on 2 March 2017 establishing a referral mechanism for PoCs identified within mixed movement flows in migratory routes.

⁵ Such as the Convention on the Elimination of All Forms of Discrimination Against Women, 1979 and Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003.

Government has developed a national strategy on SGBV prevention and response (2017-2021).

Despite this legal framework, SGBV is still very stigmatised and little talked about in Niger. Survivors of SGBV dare not talk about it for fear of being stigmatised from other communities and are even less willing to follow up with a criminal process. Not only do they risk the shame and dishonour, but also the risk of not being believed in by police, prosecutors and judges.

According to the Nigerien law rape is punishable by 10 to 30 years in prison, depending on the circumstances and age of the victim, albeit the effectiveness of the law is questionable due to the cultural dimensions.

Recommendations:

UNHCR recommends that the Government of Niger:

- a) Fully implement the recommendations of the national strategy on SGBV prevention and response (2017-2021);
- b) Capacitate police and prosecutors in Niger so they can acquire special expertise in how to collect evidence and interview SGBV survivors; and,
- c) Conduct regular awareness-raising campaigns on SGBV prevention activities targeting religious and traditional leaders as well as groups at heightened risk including children, LGBTI individuals, single women and persons with disabilities, in collaboration with the humanitarian community.

Issue 2: Child Protection

Linked to 2nd cycle UPR recommendation no. 120.117: “Prevent different forms of danger for children such as life on the streets, domestic violence, child trafficking, child labour, armed conflict, sexual exploitation (Ukraine)”

The Republic of Niger is a party to the *Convention on the Rights of the Child*. Niger is also a signatory to the *ILO Convention No.182 on the Worst Forms of Child Labor (1999)*. In practice however, there is a general lack of compliance with and the enforcement of these legal instruments for refugees and nationals alike, with problems further compounded by cultural norms which regard children as valuable labour for the families. The most common protection concerns affecting children are low school enrolment rates and high drop-out rates, SGBV (early/forced marriage⁶) and economic exploitation.

Recommendations:

UNHCR recommends that the Government of Niger:

- a) Ensure compliance with the *Convention on the Rights of the Child* and *ILO Convention No.182 on the Worst Forms of Child Labor (1999)*; and,
- b) Combat traditional harmful practices exposing children to various forms of abuses including early/forced marriages, forced labour, human trafficking, domestic violence, sexual exploitation and forced recruitment into non-state armed groups.

Additional protection challenges

Issue 3: Maintaining the civilian and humanitarian character of asylum

⁶ The law allows a girl deemed to be “sufficiently mature” to marry at age 15. Some families entered into marriage agreements under which they sent rural girls who were age 12 or even younger to their “husband’s” families to be under the “supervision” of their mothers-in-law. According to UN statistics, 76 percent of girls married by age 18. The leading cause of death for girls ages 15 to 19 was maternal hemorrhage (17 percent of all deaths in this age group).

Widespread insecurity throughout the Lake Chad Basin and the Sahel region and the threat of attacks pose security and protection risks for all civilians on Niger territory, including refugees, IDPs, returnees and host communities⁷. These include both the threat of infiltration by armed elements in refugee and IDP hosting areas as well as physical attacks on civilians. Non-State Armed Groups' attacks on civilians continue in north-eastern Nigeria and areas affected by the conflict in Niger. Civilians are at risk of being targeted or becoming victims of indiscriminate armed attacks, abductions and forced recruitment. Due to insecurity, humanitarian and sometimes civilian government actors have also limited access to certain zones, particularly in border areas. Maintaining the civilian character of refugee and IDP hosting areas is an important protection standard, with broad implications on other protection issues, such as physical protection from sexual and gender-based violence, protection from forced and child recruitment and access to assistance. A deteriorating security situation in areas where refugees and IDPs seek refuge (especially in Tillaberi, Tahoua, Maradi and Diffa regions) can furthermore affect overall conditions for host communities.

Recommendations:

UNHCR recommends that the Government of Niger:

- a) Strengthen preventive and security measures in refugee hosting areas to ensure the civilian character of asylum; and,
- b) Ensure humanitarian access to allow protection interventions and assistance for the civilian population by humanitarian actors.

UNHCR
October 2020

⁷ Recently, the refugee hosting area of Intikane was attacked on 31 May 2020 by non-state armed groups, causing deaths, destructions and movements of populations.