



International Covenant on Civil and Political Rights

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Human Rights Committee

Report on follow-up to the concluding observations of the Human Rights Committee*

Addendum

Evaluation of the information on follow-up to the concluding observations on the Niger

<i>Concluding observations (125th session):</i>	CCPR/C/NER/CO/2 , 22 March 2019
<i>Follow-up paragraphs:</i>	11, 33 and 43
<i>Information received from State party:</i>	CCPR/C/NER/FCO/2 , 17 November 2021
<i>Information received from stakeholders:</i>	Joint civil society submission , 6 August 2021
<i>Committee's evaluation:</i>	11 [A] [B], 33 [A] [B] and 43 [A] [C]

Paragraph 11: Fight against corruption

The State party should: (a) step up its efforts to combat corruption and to ensure that it does not go unpunished; (b) ensure that all cases of corruption are independently and impartially investigated and, where applicable, that appropriate judicial penalties are imposed on perpetrators; and (c) take the necessary steps to ensure transparent management of contracts with international mining companies and of the revenues derived from such contracts.

Summary of the information received from the State party

(a) The Supreme Authority for the Fight against Corruption and Related Offences is implementing the National Anti-Corruption Strategy and the related action plan for 2018–2020. The Authority has recently set up a toll-free helpline, social media accounts and a website with complaint and report forms in order to reach more people. It has also taken awareness-raising measures including conducting training sessions in schools and producing video clips. In the 2020–2021 local and general elections, the Authority deployed approximately 100 observers and contributed to a significant decrease in electoral fraud. The President has declared a zero-tolerance policy on impunity.

(b) In 2020, the Authority registered 108 referrals, on the basis of which 11 reports were prepared and forwarded to the relevant judicial and administrative authorities. Several government officials are currently being prosecuted or have been imprisoned for corruption and related offences. In addition, approximately 100 officials, students and parents of

* Adopted by the Committee at its 138th session (26 June–26 July 2023).



students were recently arrested and brought to justice for having committed fraud in the 2021 baccalaureate examinations.

(c) The Niger rejoined the Extractive Industries Transparency Initiative in February 2020. The corrective measures necessary to comply with the relevant standards were implemented, including the creation of a platform allowing citizens to view information on income from extractive activities and the publication of contracts in the Official Gazette, as provided for in article 150 of the Constitution. The Niger Mining Resources Company trains officials to better detect front companies that commit fraud. The Extractive Industries Transparency Initiative disclosures allow the public to better understand how subnational transfers are granted and to identify the amounts owed to the State and to local governments.

Summary of the information received from stakeholders

(a) Order No. 2020-02 was adopted by the National Assembly in June 2020. It expands the list of public officials subject to the obligation to declare their assets, thus strengthening the legal framework to fight corruption. However, this obligation does not extend to parliamentarians.

(b) A number of alleged corruption cases have been referred to the judicial authorities, including a major case implicating the Ministry of Defence, for which judicial proceedings are expected to commence.

(c) Since the Committee made its recommendation, once contracts have been announced in the Council of Ministers, they have been published in the Official Gazette.

Committee's evaluation

[A]: (c)

The Committee welcomes the measures taken to ensure transparent management of contracts with international mining companies and the fact that the Niger rejoined the Extractive Industries Transparency Initiative in February 2020.

[B]: (a) and (b)

(a) The Committee welcomes the steps taken to combat corruption under the framework of the National Anti-Corruption Strategy, including outreach activities and the recovery of illicitly obtained funds. It requests further information on the operationalization of the toll-free helpline and any plans to include parliamentarians within the scope of the obligation to declare assets pursuant to Order No. 2020-02 adopted in June 2020.

(b) The Committee welcomes the reported increase in referrals of alleged corruption cases to the judicial authorities, including a major case implicating the Ministry of Defence. Nevertheless, it requests further information, including statistical data, on investigations, prosecutions and convictions, particularly with regard to high-level corruption.

Paragraph 33: Conditions of detention

The State party should take the necessary measures to: (a) continue its efforts to improve living conditions and the treatment of prisoners, in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners; (b) address the problem of prison overcrowding in the Niamey civil prison, in particular by transferring prisoners to institutions that are not overcrowded and continuing efforts to favour alternatives to deprivation of liberty; (c) renovate all existing detention centres; and (d) continue to guarantee the right of the National Human Rights Commission to have unrestricted access to all places of deprivation of liberty.

Summary of the information received from the State party

(a) On 17 April 2020, the Government adopted a prison policy covering three main areas: reforming prison administration and strengthening prison governance; humanizing detention conditions; and reinsertion and productivity. In August 2021, the first cohort of 130 prison

administration students graduated, having completed 18 months of training. Funding for food, bedding and medical expenses in prisons has been substantially increased.

(b) On 18 October 2019, decree No. 2019-599/PRN/MJ was adopted, on the implementation of Act No. 2017-05 of 31 March 2017 establishing community service as an alternative to custodial sentences. The Ministry of Justice has issued circulars on pretrial detention, reminding judges that liberty is the rule.

(c) A wide-ranging programme of construction and refurbishment of prisons has been launched, involving approximately 20 of the 41 facilities in the country. In addition, 28 juvenile wings have been refurbished to bring them up to the required standard, infirmaries have been constructed, including at Koutoukallé high-security prison, and decent toilets, latrines, drinking water supply systems, septic tanks, sewage channels and sports areas have been installed in several facilities.

(d) The National Human Rights Commission has the authority to make unannounced visits to any place of detention. Its powers were strengthened by Act No. 2020-02 of 6 May 2020 establishing the national preventive mechanism, in application of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Summary of the information received from stakeholders

(a) The State issued a decree on 17 April 2020 increasing from two to three the number of daily food rations for inmates, but the financial resources required to implement the change have not yet been allocated.

(b) Some prisoners have been transferred to detention facilities outside of Niamey in order to reduce overcrowding. Steps have been taken to improve access to criminal justice proceedings, including the recruitment of additional judges and the extension of the jurisdiction of tribunals at the local level.

(c) Renovation work has been undertaken in the prisons of Niamey, Kolo, Tera and Dai-Kaïna. While a new prison has been built in Loga, it is not yet operational because it does not meet international standards. The prison construction project in Niamey was delayed, seemingly owing to the health and security crises. A vocational reintegration centre for juvenile offenders was built in 2021 and is operational.

(d) The mandate of the National Human Rights Commission was extended by law to include prevention of torture, including through regular and unannounced visits to places of detention. However, the authorities seem not to have provided the Commission with a budgetary allocation to perform this function.

Committee's evaluation

[A]: (d)

The Committee welcomes the adoption of Act No. 2020-02 of 6 May 2020 extending the mandate of the National Human Rights Commission to perform the role of national mechanism for the prevention of torture, including making unannounced visits to places of detention. It requests information on the budgetary allocation provided to the Commission in order to perform this function effectively.

[B]: (a), (b) and (c)

(a) The Committee welcomes the adoption of the new prison policy and the reported increase in daily food rations for inmates. Nevertheless, it regrets that funds have reportedly yet to be allocated to support the increase. The Committee requests additional information on the increase in funding for food, bedding and medical expenses, and on the separation of pretrial detainees from convicted prisoners.

(b) The Committee welcomes the reported transfer of prisoners from Niamey civil prison to other detention facilities. Nevertheless, it regrets the lack of specific information provided by the State party in this regard. It also welcomes the adoption of decree No. 2019-599/PRN/MJ and requests information on the effective recourse to community service and

other alternatives to custodial sentences. Furthermore, the Committee welcomes steps reportedly taken to improve access to judicial proceedings, and requests additional information in this regard.

(c) The Committee welcomes the reported wide-ranging programme of prison construction and renovation. It requests updated information in this regard, including information on the facilities not covered by the existing programme.

Paragraph 43: Freedoms of expression and assembly and protection of journalists and human rights defenders

In the light of the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression, the State party should: (a) ensure that any restrictions on press and media activities are fully compatible with the provisions of article 19 (3) of the Covenant; (b) ensure that agents of the State avoid any unnecessary or disproportionate interference with the freedom of expression of the media, protect journalists from any form of ill-treatment, and investigate, prosecute and sentence the perpetrators of such acts; (c) take all necessary measures for the protection of human rights defenders from threats and intimidation and investigate, prosecute and sentence the perpetrators of such acts; (d) expedite the adoption of the bill on the protection of human rights defenders; (e) lift any unnecessary restrictions on freedom of assembly and demonstration; (f) carry out prompt, impartial and effective investigations of all cases involving the excessive use of force for the dispersal of demonstrations and bring the perpetrators to justice; and (g) clarify and, where appropriate, revise the regulatory and legislative framework for authorization of demonstrations and the role and remit of the High Council for Communications to ensure that the provisions of article 19 of the Covenant are respected.

Summary of the information received from the State party

(a) Some private media outlets that had disseminated messages of hatred, revolt and incitement to violence, in violation of all ethical standards, were closed prior to April 2021. The closures were merely administrative measures aimed at keeping the peace and maintaining public order. They were conducted in accordance with national law and article 19 (3) (b) of the Covenant.

(b) Since the adoption of legislation decriminalizing press offences, no journalists have been detained for such offences, including defamation and insults. Any journalist who is a victim of ill-treatment in the course of, or in connection with, the performance of his or her duties can apply to the competent courts, irrespective of who is responsible for the incident. If necessary, journalists can initiate criminal proceedings themselves by filing a complaint as a civil party.

(c) No information was provided.

(d) The bill on the protection of human rights defenders has been sent for initial examination to the expert committee responsible for checking legal texts and will soon be transmitted to the National Assembly, once it has been adopted by the Council of Ministers. The bill establishes the rights and reciprocal obligations of human rights defenders and the State.

(e) Demonstrations on public thoroughfares remain subject to a declaration-based system, with exceptions for local customs and political rallies or marches organized during election campaigns. The administrative authorities can ban an event for various reasons, including failure to comply with the deadline for declaring the event, on the basis of the route, day or time selected, or for reasons of public safety or health.

(f) No information was provided.

(g) The legislative and regulatory framework relating to freedom of assembly and demonstration will soon be revised to bring it more into line with the provisions of the Covenant.

Summary of the information received from stakeholders

- (a) The cybercrime law of 2019 has been used to prosecute journalists, including for defamation and undermining public order.
- (b) There have been attempts to muzzle journalists, notably through prosecutions of investigative journalists working on high-level corruption cases, such as a corruption case involving the Ministry of Defence.
- (c) The 2019 cybercrime law has been used to prosecute human rights defenders, notably for sharing information in the context of the Government's response to the coronavirus disease (COVID-19) pandemic. Human rights defenders and activists were injured and arrested in the context of the brutal repression of "unauthorized" protests in Niamey in March 2020, in which participants demonstrated against the impunity afforded to those involved in the Ministry of Defence corruption case.
- (d) The Government, the opposition and civil society agree that conditions are in place for the bill on the protection of human rights defenders to be adopted during the next session of the National Assembly.
- (e) During the COVID-19 pandemic, the authorities justified general bans on public gatherings as necessary to manage the public health crisis. However, in practice, political party gatherings, particularly in the context of the electoral process, were authorized, while demonstrations organized by civil society were not.
- (f) Investigations are under way to determine responsibility for a fire caused by the use of tear gas by the police to disperse protestors in Niamey in 2020, which resulted in one fatality.

Committee's evaluation

[A]: (d)

The Committee welcomes the State party's adoption in June 2022 of a law on the protection of human rights defenders, which was drafted in consultation with civil society.

[C]: (a), (b), (c), (e), (f) and (g)

- (a) The Committee regrets that certain press and media activities, notably investigative journalism, reportedly continue to be restricted. It reiterates its recommendation.
- (b) The Committee regrets the apparent absence of steps taken to protect the press and the media from interference, and the reported arrests and prosecutions of investigative journalists, notably under the 2019 cybercrime law. It also regrets the absence of information from the State party on measures taken to protect journalists, including through the investigation of alleged intimidation and ill-treatment. It reiterates its recommendations.
- (c) The Committee regrets the absence of information on measures taken to protect human rights defenders. It also regrets the fact that human rights defenders and activists have reportedly been subjected to arbitrary arrest for expressing views considered critical of the Government and for participating in peaceful protests. It reiterates its recommendations.
- (e) The Committee regrets that the State party continues to implement an authorization regime for assemblies, which is not in line with the Committee's general comment No. 37 (2020) on the right of peaceful assembly. It reiterates its recommendation.
- (f) The Committee regrets the absence of information on the investigation of cases involving the excessive use of force to disperse demonstrators. It reiterates its recommendation.
- (g) While welcoming the indication that the legislative and regulatory framework relating to the right of peaceful assembly will soon be revised to bring it more into line with the Covenant, the Committee regrets the lack of measures taken to date, and the lack of specific information on the role and remit of the High Council for Communications. It reiterates its recommendation.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

Next periodic report due: 2028 (country review in 2029, in accordance with the predictable review cycle).
