



# Convention on the Rights of the Child

Distr.: General  
3 November 2017  
English  
Original: French

---

Committee on the Rights of the Child

## Report submitted by the Niger under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, due in 2006\*

[Date received: 13 August 2015]

---

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

GE.17-19487 (E) 050118 110118



\* 1 7 1 9 4 8 7 \*

Please recycle 



## Contents

	<i>Page</i>
List of tables .....	3
Introduction .....	4
Part One	
Common core document .....	4
I. General information about the country.....	4
A. Geographic characteristics .....	4
B. Demographic, social and cultural characteristics.....	5
C. Economic characteristics .....	7
D. Constitutional, political and legal structure of the State .....	8
II. General framework for the protection and promotion of human rights .....	11
A. Acceptance of international human rights norms.....	11
B. Legal framework for the protection of human rights at the national level.....	14
C. Framework for the promotion of human rights at the national level .....	16
D. Preparation of reports at the national level .....	18
III. Information on non-discrimination and equality and effective remedies .....	18
Part Two	
Data .....	21
I. General measures of implementation .....	24
II. Prevention .....	26
III. Prohibition and related issues.....	28
IV. Protection of victims' rights .....	35
V. International assistance and cooperation.....	37
VI. Other legal measures .....	38
Conclusion .....	39

## List of tables

Table 1: Main preliminary results of the fourth general population and housing census (2012), by region and department .....	5
Table 2: Population distribution according to poverty status and region in 2007–2008 .....	7
Table 3: Economic data.....	8

## **Introduction**

1. The present report is submitted under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. The Niger ratified the Protocol on 17 November 2003. It was required to submit its initial report on the measures taken to implement the Protocol within two years of that date. Following the ratification of the Protocol, however, the Niger was unable to submit a report to the body concerned. The present initial report is therefore being submitted to the Committee on the Rights of the Child at the same time as the periodic report on the implementation of the Convention.
2. The present report reflects the State's desire to fulfil the obligations arising from its ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.
3. The initial report has been drafted in accordance with the guidelines adopted by the Committee at its 777th meeting, on 1 February 2002. It describes the measures taken by the State and all stakeholders to combat violence against children. It examines in detail the issues highlighted by recent data as well as relevant pieces of legislation, some of which are annexed to the report. It outlines the measures taken by the State to implement the provisions of the Protocol and protect victims, while identifying the forms of cooperation on which it relies to combat the various kinds of violence against children.
4. The report has been drafted using a participatory approach involving all stakeholders, and each aspect of the general framework established by the guidelines has been addressed.
5. The report has two parts. The first part contains general information on the Niger, while the second provides specific information on each provision of the Protocol.

## **Part One**

### **Common core document**

#### **I. General information about the country**

##### **A. Geographic characteristics**

6. The Niger is a landlocked country located in the Saharan zone of the eastern part of West Africa with a surface area of 1,267,000 km<sup>2</sup>. The Saharan zone accounts for two thirds of its territory.
7. The Niger shares seven borders with its neighbours: it is bounded 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.
8. Its hydrographic network consists of the Niger River, the Komadugu Yobe and Goulbi de Maradi waterways, Lake Chad, Lake Madarounfa, Lake Guidimouni and many permanent and semi-permanent ponds. A number of factors, such as the declining flow rate of the Niger River and silting, hamper the development of irrigation and make it difficult to meet the water needs of people and livestock.
9. The Niger is an underdeveloped country whose environment faces many natural challenges. Human activity as well as climate change have brought about a deterioration of environmental resources. Access to sanitation is poor: according to the Multiple-Indicator Demographic and Health Survey carried out in 2012, 9 per cent of households had adequate sanitation facilities (34 per cent of households in urban areas and 4 per cent in rural areas). Sewage disposal, rainwater drainage and household waste management are major concerns.
10. Industrial waste is discharged into rivers, the soil and the air, polluting the environment and jeopardizing social well-being in Arlit, Akokan, Agadez, Niamey and

many other towns. Energy poverty and the destruction of the biodiversity of fauna and flora have also harmed the country's environment.

## B. Demographic, social and cultural characteristics

11. The population of the Niger was estimated at 17.1 million by the 2012 General Population and Housing Census. Children under the age of 18 account for 56 per cent of the population (UNICEF, 2012). Some 80 per cent of the population is rural, and the life expectancy at birth is 58.4 years. Population growth — at a yearly rate of 3.9 per cent, one of the world's highest — is occurring in a context characterized by limited human development.

12. The Niger has a diverse population made up of nine ethnic groups (Hausa, Djerma, Tuareg, Fulani, Arabs, Kanuri, Toubou, Gurma and Buduma) who live together in harmony. The vast majority of these ethnolinguistic communities are concentrated in the western and southern parts of the country, where the land is more fertile.

Table 1

### Main preliminary results of the fourth general population and housing census (2012), by region and department

Region/Department	Reference period					Annual average growth rate in period between censuses (%)	
	1988	2001	2012			1988–2001	2001–2012
	Total	Total	Total	Male	Female		
<b>Agadez region</b>	<b>208 828</b>	<b>321 639</b>	<b>481 982</b>	<b>244 699</b>	<b>237 283</b>	<b>3.4</b>	<b>3.6</b>
Arlit	68 979	98 170	103 369	53 246	50 123	2.8	2.9
Bilma	8 928	17 080	17 459	8 458	9 001	5.1	0.2
Tchirozerine	130 921	206 389	241 007	121 785	119 222	3.6	4.1
Aderbissinat			35 465	18 358	17 107		4.1
Iferouane			32 864	16 018	16 846		2.9
Ingall			51 818	26 834	24 984		4.1
<b>Diffa region</b>	<b>189 091</b>	<b>346 595</b>	<b>591 788</b>	<b>300 934</b>	<b>290 854</b>	<b>4.8</b>	<b>4.7</b>
Diffa	76 852	148 151	155 211	77 936	77 275	5.2	4.0
Maïné-Soroa	83 414	143 397	133 000	67 760	65 240	4.3	4.3
N'guigmi	28 825	55 047	73 073	37 051	36 022	5.1	7.4
Bosso			78 038	40 361	37 677		4.0
Goudoumaria			100 409	51 100	49 309		4.3
N'gourti			52 057	26 726	25 331		7.4
<b>Dosso region</b>	<b>1 018 895</b>	<b>1 505 864</b>	<b>2 040 699</b>	<b>999 641</b>	<b>1 041 058</b>	<b>3.1</b>	<b>2.7</b>
Boboye	205 923	270 188	253 070	121 711	131 359	2.1	2.4
Dogondoutchi	314 607	494 354	371 078	182 487	188 591	3.5	2.3
Dosso	246 472	353 950	495 328	242 175	253 153	2.8	2.9
Gaya	164 305	253 444	261 693	128 909	132 784	3.4	3.4
Loga	87 588	133 928	176 673	85 800	90 873	3.3	2.4
Dioundiou			109 654	54 683	54 971		3.4
Falmey			103 850	50 947	52 903		2.4
Tibiri (Doutchi)			269 353	132 929	136 424		2.3

Region/Department	Reference period					Annual average growth rate in period between censuses (%)	
	1988	2001	2012			1988–2001	2001–2012
	Total	Total	Total	Male	Female		
<b>Maradi region</b>	<b>1 389 433</b>	<b>2 235 570</b>	<b>3 404 645</b>	<b>1 662 880</b>	<b>1 741 765</b>	<b>3.7</b>	<b>3.7</b>
Aguié	172 960	276 938	246 160	119 224	126 936	3.7	3.4
Dakoro	258 098	434 925	631 429	310 623	320 806	4.1	4.0
Guidan Roundji	210 610	348 321	524 406	254 798	269 608	3.9	3.6
Madarounfa	306 216	439 431	449 906	218 117	231 789	2.8	4.3
Mayahi	227 812	392 254	559 009	268 762	290 247	4.3	3.1
Tessaoua	213 737	343 701	516 227	252 035	264 192	3.7	3.6
Bermo			52 121	26 725	25 396		4.0
Gazaoua			160 490	78 463	82 027		3.4
Maradi			264 897	134 133	130 764		4.3
<b>Tahoua region</b>	<b>1 308 598</b>	<b>1 972 907</b>	<b>3 327 260</b>	<b>1 647 447</b>	<b>1 679 813</b>	<b>3.2</b>	<b>4.6</b>
Abalak		80 955	255 914	131 610	124 304	0.4	10.5
Birni n’Konni	253 879	363 176	313 782	156 707	157 075	2.8	3.6
Bouza	180 805	277 782	445 659	219 754	225 905	3.4	4.2
Illela	175 080	263 832	334 755	165 844	168 911	3.2	3.8
Keita	159 675	218 337	337 635	164 533	173 102	2.4	3.8
Madaoua	214 025	319 374	544 215	271 949	272 266	3.1	4.7
Tahoua	240 184	359 994	434 295	208 090	226 205	3.2	4.2
Tchintabaraden	84 950	89 457	143 598	71 684	71 914	0.4	7.5
Bagaroua			73 692	35 709	37 983		3.8
Malbaza			232 992	116 980	116 012		3.6
Tassara			24 365	12 454	11 911		7.5
Tillia			39 067	19 838	19 229		7.5
Tahoua			147 291	72 295	74 996		4.2
<b>Tillabéri region</b>	<b>1 328 283</b>	<b>1 872 436</b>	<b>2 715 186</b>	<b>1 334 339</b>	<b>1 380 847</b>	<b>2.7</b>	<b>3.2</b>
Filingue	285 977	406 334	306 244	150 944	155 300	2.7	2.7
Kollo	234 588	308 627	465 303	230 352	234 951	2.1	3.1
Ouallam	190 171	281 821	323 939	156 787	167 152	3.1	2.8
Say	163 376	232 460	174 211	87 323	86 888	2.7	3.9
Tera	295 969	425 824	337 433	164 932	172 501	2.8	3.9
Tillabéri	158 202	217 370	226 765	109 485	117 280	2.5	2.2
Abala			139 812	68 134	71 678		2.7
Ayerou			54 201	26 525	27 676		2.2
Balleyara			108 366	51 769	56 597		2.7
Banibangou			63 844	31 700	32 144		2.8
Bankilare			84 543	42 546	41 997		3.9
Gotheye			241 401	118 239	123 162		3.9
Torodi			189 124	95 603	93 521		3.9
<b>Zinder region</b>	<b>1 411 061</b>	<b>2 080 250</b>	<b>3 556 239</b>	<b>1 770 045</b>	<b>1 786 194</b>	<b>3.0</b>	<b>4.7</b>
Goure	162 275	227 400	332 278	167 346	164 932	2.6	4.3
Magaria	355 153	496 874	579 181	286 663	292 518	2.6	5.6
Matameye	164 107	246 496	401 012	196 650	204 362	3.2	4.3

Region/Department	Reference period					Annual average growth rate in period between censuses (%)	
	1988	2001	2012		1988–2001	2001–2012	
	Total	Total	Total	Male			Female
Mirriah	536 695	770 638	506 165	252 593	253 572	2.8	4.7
Tanout	192 831	338 842	439 741	218 046	221 695	4.4	4.1
Belbedji			97 484	49 008	48 476		4.1
Damagaram Takaya			240 961	119 790	121 171		4.7
Dungass			350 444	175 289	175 155		5.6
Takeita			249 036	122 951	126 085		4.7
Tesker			38 128	19 676	18 452		4.3
Zinder			321 809	162 033	159 776		4.7
<b>Niamey</b>	<b>397 437</b>	<b>725 030</b>	<b>1 011 277</b>	<b>501 459</b>	<b>509 818</b>	<b>4.7</b>	<b>2.9</b>
<b>Country total</b>	<b>7 251 626</b>	<b>11 060 291</b>	<b>17 129 076</b>	<b>8 461 444</b>	<b>8 667 632</b>	<b>3.3</b>	<b>3.9</b>

Source: National Institute of Statistics, 2012.

13. A large proportion of the population is poor. According to the 2011 national survey on household living conditions and agriculture, 48.2 per cent of the population lives below the poverty line. The 2007–2008 survey on household budgets and consumption conducted by the National Institute of Statistics placed this figure at 59.5 per cent.

Table 2

**Population distribution according to poverty status and region in 2007–2008**

Region	Poverty status (%)		%
	Poor	Not poor	
Agadez	16.1	83.9	100
Diffa	18.3	81.7	100
Dosso	66.9	33.1	100
Maradi	73.4	26.6	100
Tahoua	57.6	42.4	100
Tillabéri	71.7	28.3	100
Zinder	53.8	46.2	100
Niamey	27.8	72.2	100
<b>Total</b>	<b>59.5</b>	<b>40.5</b>	<b>100</b>

Source: *Annuaire statistique* (Statistical yearbook), National Institute of Statistics, 2008 edition.

### C. Economic characteristics

14. The Niger is rich in natural resources, including uranium, coal, iron, gold, phosphate and oil. With the exploitation of a fourth uranium extraction site in Imouraren, the Niger is expected to become the second biggest uranium producer in the world.

15. These resources, combined with those generated by the oil industry, are expected to raise the standard of living of the population. The Niger is one of the poorest countries in the world, with a nominal GDP per capita of \$415.4 in 2012 and a ranking of 187 out of 187 on the Human Development Index.

Table 3

**Economic data**

<i>Macroeconomic indicators</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
<b>Changes in gross domestic product (GDP)</b>				
Nominal GDP (billions CFAF)	2 533.4	2 809.1	3 004.4	3 457.9
Nominal GDP per capita (thousands CFAF)*	172.4	184.8	191.0	212.5
Real GDP growth (%)	-0.7	8.2	2.1	10.8
Real GDP growth per capita (%)	-4.1	4.6	-1.2	
<b>GDP composition by sector (%)</b>				
Primary sector	39.0	42.1	39.2	38.2
Agriculture	22.5	27.1	24.1	24.6
Livestock farming	12.0	10.5	10.7	9.5
Forestry and fishing	4.4	4.5	4.5	4.1
Secondary sector	15.0	14.5	14.6	20.4
Tertiary sector	38.7	35.9	37.3	35.1
Taxes on products	7.3	7.5	8.9	6.33
<b>Other ratios and indicators of the national economy</b>				
Gross national income (billions CFAF)	2 515.1	2 787.8	2 990.6	3 409
Gross domestic savings rate (%)	9.9	14.4	10.0	15.1
Investment rate (%)	36.5	42.0	37.6	34
Private consumption as percentage of GDP	73.7	70.8	73.2	71.2
GDP attributable to informal economy (%)	69.2	70.7	68.9	68
Average annual inflation (%)	4.3	0.9	2.9	0.5
Change in GDP deflator (%)	5.5	2.4	4.8	3.1
Negotiated price per kg of uranium (CFAF)	55 000	55 000	70 000	73 000
Budget revenue as percentage of GDP	14.4	13.7	16.8	15.7
Tax receipts as percentage of GDP	13.5	12.9	16.2	14.2
Total expenditure as percentage of GDP	24.1	20.8	23.9	24.5
Current expenditure as percentage of GDP	9.8	11.5	14.8	12.1
External debt outstanding as percentage of GDP	23.8	21.7	23.2	
Free on board trade balance as percentage of GDP	-14.9	-13.5	-15.0	20.2
Foreign trade coverage ratio (%)	43.4	42.5	44.1	-7.2
Loans to the economy (billions CFAF)	310.9	350.5	418.8	56.8
Liquidity rate of economy (%)	18.7	20.5	19.7	500
Velocity of circulation of money	5.4	4.9	5.1	23.1

*Source: Le Niger en chiffres (The Niger in figures), National Institute of Statistics, 2011 edition.*

\* CFA francs.

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

16. The Niger gained independence on 3 August 1960. From then until the early 1990s, the country was governed under a one-party system or by a military regime.

17. The National Conference of 1991 led to the establishment of transitional authorities: the Supreme Council of the Republic, which acted as a parliament, and a transitional government led by a designated prime minister, who held real power and was responsible



for organizing the general elections of 1993 to choose the first democratically elected leaders under the Third Republic.

18. This democratic process was interrupted on three occasions by the intervention of the army in the political arena (in 1996, 1999 and 2010).

19. In 1993, the Alliance des Forces du Changement (Alliance of Forces for Change) won the presidential and legislative elections, gaining a majority in parliament. The collapse of that alliance, owing to the strained relations between its various members, led to a grave political crisis at the highest levels of the Government. The army entered the political arena, putting an end to the regime. On 12 May 1996, the Conseil du Salut National (National Salvation Council), a governing body put in place by the army, presided over the adoption of the Constitution of the Fourth Republic. The presidential elections held in July 1996 were won by the chair of the Conseil du Salut National with the backing of a national support committee. The opposition parties, believing the ballot to have been riddled with irregularities, regrouped as the Front pour la Restauration et la Défense de la Démocratie (Front for the Restoration and Defence of Democracy). The opposition refused to participate in the parliamentary elections of November 1996, which ushered in a new phase of political instability.

20. To keep the peace, local elections were held in 1998 by mutual agreement. The results of the elections, which were won by the opposition, were largely overturned by the Supreme Court, which led to a major political crisis. On 9 April 1999, the army once again intervened to put an end to the crises. A new constitution was adopted by referendum on 18 July 1999. Presidential and parliamentary elections were held in October and November 1999, leading to the establishment of the Fifth Republic.

21. In November 2009, after completing two terms in office, the President decided to push through a new constitution that would establish the Sixth Republic and authorize him to extend his mandate by three years, enabling him to remain in power despite the opposition of the Constitutional Court. In an attempt to legitimize his power, the President held legislative and local elections to complete the process of establishing the Sixth Republic.

22. That process was interrupted by a new military coup staged on 18 February 2010 by the Conseil Supérieur de la Restauration de la Démocratie (Supreme Council for the Restoration of Democracy), the highest body responsible for outlining and developing national policy during the transition period. The objectives of the Council were to restore democracy, stabilize public finances and fight corruption.

23. The transitional regime established a constitution on 25 November 2010 and held local, legislative and presidential elections.

24. The first president of the Seventh Republic was sworn in on 7 April 2011.

25. The current constitutional framework is as follows:

#### **Executive branch**

26. The President of the Republic guarantees national independence, national unity, territorial integrity, and respect for the Constitution and international treaties and agreements. The President ensures the proper functioning and continuity of the Government.

27. The Government is led and managed by the Prime Minister, who coordinates its activities.

#### **Legislative branch**

28. Legislative power is exercised by a single chamber called the National Assembly, whose members are known as deputies. The National Assembly enacts laws, institutes taxes and oversees the activities of the Government.

**Judiciary branch**

29. The judiciary is independent of the legislative and executive branches. Judicial power is exercised by the Constitutional Court, the Court of Cassation, the State Council, the Audit Court, and the various lower courts. The judicial bodies established under the Constitution include the following:

- The Constitutional Court has jurisdiction over constitutional and electoral matters. It rules on the constitutionality of laws and ordinances and the conformity of international treaties and agreements with the Constitution.
- The Court of Cassation is the highest court responsible for judicial matters.
- The State Council is the highest court responsible for administrative matters. It rules on abuses of authority by administrative authorities at the first and last instances, and on applications for interpretation and assessment of the lawfulness of administrative actions.
- The Audit Court is the highest court for the supervision of public finances. It has jurisdictional, supervisory and consultative functions.
- The High Court of Justice is an institution that reports to the National Assembly. It is competent to try members of the Government for crimes and other offences committed in the performance of their duties and the President for acts of high treason committed while in office.

30. The courts recognize two sources of law: positive law and custom. In areas relating to personal status, such as marriage, divorce and inheritance, customs are widely applied by the courts. However, article 99 of the Constitution provides that the law shall establish the rules governing the procedure by which customs are recorded and brought into line with the fundamental principles of the Constitution.

**Other bodies**

- 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 Council, has the authority to examine bills and proposed legislation pertaining to economic, social and cultural, but not financial, matters.
- The High Council for Communications, established by Act No. 2012-34 of 7 June 2012 on the composition, responsibilities, organization and functioning of the Council, is an independent administrative authority whose mission is to protect and guarantee the freedom and independence of the audiovisual media and the written and electronic press in accordance with the law.
- The National Human Rights Commission was established by Act No. 2012-44 of 24 August 2012. Its responsibilities, which are set out in articles 19, 20 and 21 of the Act, are to consider complaints, to act on its own motion and carry out investigations in cases of human rights violations, to ensure respect for human rights, to raise citizens' awareness of their rights, and to design and implement human rights education programmes.
- The traditional chieftaincy is regulated by Ordinance 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:

Traditional chiefs shall be empowered to act as conciliators between the parties in customary, civil and commercial matters. They shall regulate, according to custom, the use by families and individuals of agricultural and pastoral land over which the customary community for which they are responsible has recognized customary rights. Chiefs shall write reports on all successful or unsuccessful conciliation proceedings for inclusion in an ad hoc register, a summary of which is to be sent to the competent administrative authority and court. Conciliation reports signed by the parties may be endorsed by a writ of enforcement by the competent court on the initiative of one of the parties.

**Suffrage**

31. Suffrage is universal, free, equal and secret. Under the Constitution, male and female nationals aged 18 or over on the day of an election, as well as emancipated minors in possession of their civil and political rights, are eligible to vote under conditions established by law.

**Freedom of association**

32. Within the framework of the freedom of association recognized and guaranteed by the Constitution, political parties, groups of political parties, trade unions, non-governmental organizations (NGOs) and other associations and groups of associations may be set up and may conduct their activities freely, provided that they comply with the laws and regulations in force. Ordinance No. 84-06 of 1 March 1984 on associations provides that they must be declared and authorized before they begin their activities.

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

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

33. In the framework of the protection and promotion of the values of universal human rights, the Niger has signed the following international and regional legal instruments:

**International instruments**

- The Slavery Convention, which was adopted in Geneva in September 1926 and signed by the Niger on 25 August 1961;
- The International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29), which was adopted on 28 June 1930 and ratified by the Niger on 23 March 1962;
- The Convention for the Suppression of the Traffic in Women of Full Age, which was adopted in October 1933 and accepted and adopted by the Niger on 25 August 1961;
- The ILO Right to Organize and Collective Bargaining Convention, 1949 (No. 98), which was adopted in 1949 and ratified by the Niger on 23 March 1962;
- The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, which was adopted in December 1949 and ratified by the Niger on 10 June 1977;
- The four Geneva Conventions (1949) on international humanitarian law, to which the Niger succeeded on 16 August 1964;
- The ILO Equal Remuneration Convention, 1951 (No. 100), which was adopted on 29 June 1951 and ratified by the Niger on 9 August 1966;
- The Convention on the Political Rights of Women, which was adopted in March 1953 and to which the Niger succeeded on 7 December 1964;
- The Protocol amending the Slavery Convention, which was adopted in October 1953 and accepted by the Niger on 7 December 1964;
- The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, which was adopted in April 1956 and ratified by the Niger on 22 July 1963;
- The ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), which was adopted in 1958 and ratified by the Niger on 23 March 1962;

- The Convention against Discrimination in Education, which was adopted on 14 December 1960 and accepted by the Niger on 16 July 1968;
- The Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, which was adopted on 7 November 1962 and to which the Niger acceded on 1 December 1964;
- The International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted on 21 December 1965 and ratified by the Niger on 27 April 1967;
- The International Covenant on Civil and Political Rights, which was adopted on 16 December 1966 and to which the Niger acceded on 7 March 1986;
- The International Covenant on Economic, Social and Cultural Rights, which was adopted on 16 December 1966 and to which the Niger acceded on 7 March 1986;
- The ILO Minimum Age Convention, 1973 (No. 138), which was adopted in 1973 and ratified by the Niger on 4 December 1978;
- The International Convention on the Suppression and Punishment of the Crime of Apartheid, which was adopted in November 1973 and ratified by the Niger on 28 June 1978;
- The Convention on the Elimination of All Forms of Discrimination against Women, which was adopted on 18 December 1979 and ratified by the Niger on 8 October 1999. The initial report of the Niger was considered in 2007 and the first periodic report has been submitted to the Committee;
- The International Convention against the Taking of Hostages, which was adopted in December 1979 and ratified by the Niger on 17 December 2003;
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was adopted on 20 December 1984 and ratified by the Niger on 5 October 1986;
- The Declaration on the Human Rights of Individuals Who are Not Nationals of the Country in Which They Live, which was adopted in December 1985 and ratified by the Niger on 27 January 2009;
- The International Convention against Apartheid in Sports, which was adopted in December 1985 and ratified by the Niger on 2 September 1986;
- The Convention on the Rights of the Child, which was adopted in November 1989 and ratified by the Niger on 30 September 1990;
- The ILO Worst Forms of Child Labour Convention, 1999 (No. 182), which was adopted in Geneva on 17 June 1999 and ratified by the Niger on 4 August 2000;
- The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, which was adopted in June 2000 and ratified by the Niger on 14 September 2004;
- The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, which was adopted on 26 April 2000 and ratified by the Niger on 17 November 2003;
- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, which was adopted in November 2000 and ratified by the Niger on 29 July 2004;
- The Convention on the Rights of Persons with Disabilities, which was adopted on 13 December 2006, and the Optional Protocol to the Convention, both of which were ratified by the Niger on 24 June 2008;

- The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, which was ratified by the Niger on 24 December 2008;
  - The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which was ratified by the Niger on 27 January 2009.
34. The Niger is not a party to the following international instruments:
- The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
  - The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;
  - The International Convention for the Protection of All Persons from Enforced Disappearance (signature only, 2007);
  - The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.
35. The Niger has ratified the Convention on the Elimination of All Forms of Discrimination against Women but has entered reservations to five articles (2, 5, 15, 16 and 29). The most significant of these reservations concern the following:
- Taking appropriate measures to modify or abolish 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 (the reservation does not concern unmarried 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.
36. 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 held regularly to bring about changes in attitudes and thus make it possible for reservations to be withdrawn.

#### **Regional instruments**

- The Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, adopted in September 1969 and ratified by the Niger on 21 September 1971;
  - The Organization of African Unity Convention for the Elimination of Mercenarism in Africa, adopted in 1977 and ratified by the Niger on 19 June 1980;
  - The Economic Community of West African States (ECOWAS) Protocol on Free Movement of Persons, the Right of Residence and Establishment, adopted in May 1979 and ratified by the Niger on 29 November 1979;
  - The African Charter on Human and Peoples' Rights, adopted on 27 June 1981 and ratified by the Niger on 21 July 1986;
  - The African Charter on the Rights and Welfare of the Child, adopted in July 1990 and ratified by the Niger on 11 December 1992.
37. In addition to ratifying these regional and international legal instruments, the authorities have taken legislative and regulatory measures to ensure compliance with the regional and international commitments entered into for the protection and promotion of the human rights of all citizens and foreign nationals living in the country.
38. As for regional instruments, the Niger is not a party to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo

Protocol). This instrument has not been ratified owing to the persistence of sociocultural constraints.

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

39. In its preamble, the Constitution of 25 November 2010 of the Niger reaffirms the country's commitment to the principles of pluralist democracy and human rights as defined by the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966) and the African Charter on Human and Peoples' Rights (1981).

40. Pursuant to article 171 of the Constitution, duly ratified treaties and agreements take precedence over national law as soon as they are published, providing that the agreement or treaty concerned is implemented by the other party.

41. The State ensures the incorporation of international human rights instruments into national law, either by adopting new legislation or by bringing existing legislation into line with them.

42. At the institutional level, the Niger has set up a number of bodies to promote and protect human rights.

### **Judicial mechanisms**

43. In the Niger, the administration of justice is the responsibility of 30 district courts, 10 regional courts, 2 courts of appeal, the Supreme Court and the Constitutional Court. Victims of human rights violations may bring cases before the courts and have recourse to legal remedies.

44. There are labour-relations courts, juvenile courts, commercial courts, rural landownership courts and administrative courts in each of the 10 regional courts, and the 30 district courts also serve as juvenile courts. There are 314 judges on these courts.

45. In 2012, to ensure the right to a defence, there were 114 qualified lawyers, 5 trainees and 5 group legal practices. The State has instituted a system of court-appointed lawyers (volunteers appointed by a decree issued by the Minister for Justice) to ensure the defence of persons unable to afford a lawyer. In 2010, there were 225 such lawyers.

46. The following extrajudicial bodies are responsible for the promotion and protection of human rights in the country:

- The Directorate for Human Rights and Social Welfare, pursuant to Order No. 17MJ/GS/PPG/SG of 1 March 2012 on the organization of the central administration services of the Ministry of Justice, became the Directorate General for Human Rights, Judicial Protection of Juveniles and Social Welfare, with an enlarged mandate encompassing several areas, namely human rights, the judicial protection of juveniles and social welfare. The Directorate General now has a mandate in these three domains to ensure the monitoring and implementation of human rights, juvenile justice and social welfare policies, to coordinate the drafting of initial and periodic reports intended for the treaty bodies, to guarantee effective compliance with international, regional and national human rights instruments and to provide legal and judicial assistance. It also works to prevent human rights violations through information and awareness-raising campaigns, education, investigations, the definition of legal frameworks, and coordination of the work of public stakeholders and civil society.
- The Prison and Rehabilitation Service, pursuant to the aforementioned Order, became the Directorate General for Prison Administration and Security and Rehabilitation. It has three departments under its authority, which are responsible for monitoring the human rights situation in prisons, drafting and enforcing prison regulations, devising strategies and programmes for risk prevention in prisons, and developing and rolling out rehabilitation programmes, including occupational

training policies and access to employment for inmates. It also provides training for prison staff and manages prisons, ensuring proper nourishment and health care for inmates as well as other rights recognized under the decree laying down regulations for prisons.

- The Directorate General for Advancement of Women, which is a part of the Ministry of Population, Advancement of Women and Protection of Children, has become the Directorate General for Advancement of Women and Gender Equality. It is responsible for ensuring that national policy for the advancement of women and gender equality is implemented and mainstreaming gender policy in development plans and programmes. It also monitors the implementation of the Convention on the Elimination of All Forms of Discrimination against Women. As part of its new organizational structure, the Ministry includes the Directorate General for Child Protection, Social Development and Humanitarian Action, which devises and implements policies, strategies, plans and programmes for child protection, social protection and humanitarian action. It also oversees the implementation 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 Police Department has, pursuant to Order No. 45MI/S/D/AR/DGPN of 28 January 2011, established a central department for the protection of minors and women. This department is made up of a secretariat, divisions for the protection of minors and the protection of women, documentation and investigation divisions, and special units responsible for the protection of minors and women at the regional, departmental and communal levels as well as at special police stations and border control checkpoints. These police units receive and deal with complaints from minors who are victims and with cases in which minors have committed criminal offences. A juvenile brigade works to detect and diagnose initial signs of delinquency among children in street situations and children with broken family ties; to identify and combat all forms of domestic and non-domestic violence and abuse committed against children, including sexual exploitation, rape, paedophilia, child pornography, and the corruption or recruitment of minors, as well as any other criminal act committed by or against a minor; and to monitor the placement in public or private child welfare institutions of minors at risk.
- Civil defence services, which are regulated by Order No. 86/MI/SP/D/AR of 14 February 2012 on the organization of the central services of the Ministry of the Interior, ensure the protection of persons, property and the environment from the risks of harm resulting from human-caused or natural disasters and in circumstances that are a matter for civil defence. They study and devise civil security measures on a national scale, organize and coordinate emergency measures, and implement the humanitarian measures necessary for the protection of people in times of crisis or war.
- The National Guard, in addition to protecting public buildings, is responsible for maintaining and restoring public order, as well as for national defence, the protection of persons and their property, and the administration, management and supervision of prisons. Following reforms, it is now empowered to receive complaints from victims of human rights violations in the remotest areas of the country, as its members are criminal investigation officers.
- The Educational, Preventive and Judicial Service, which was established by Order No. 8 of 30 April 2007, reports to the Ministry of Population, Advancement of Women and Protection of Children. Present in a number of towns around the country, it provides aid and counselling to minors in conflict with the law or at risk. Its role is essentially preventive and educational and includes the provision of timely assistance for children at risk and of educational support, as well as the social rehabilitation of minors and social welfare investigations.
- Court social services and municipal social services conduct character checks at the request of judges in the course of judicial proceedings. The municipal social services

conduct character checks for child custody purposes and advocate for inclusive local development on behalf of persons with disabilities.

47. The provisions of human rights instruments may be invoked in the courts or before the administrative authorities. In the Niger, there is a good deal of case law on this subject, especially concerning the principle of the best interest of the child, which may be invoked before the judicial and administrative authorities.

#### **Access to justice**

48. Justice is accessible to all without charge. The Universal Declaration of Human Rights has been incorporated into national legislation and can be invoked before the country's courts, as is regularly done with the provisions of the Convention on the Rights of the Child concerning the best interest of the child, particularly in cases involving adoption and custody.

49. Although this principle is recognized, the remoteness of the judicial system from the public and the sheer size and isolation of certain rural areas, which are particularly difficult to access during the rainy season, pose problems. Further difficulties include delays in legal proceedings, legal language that is technical in nature and hard to understand, and the high illiteracy rate among the population.

#### **Regional bodies recognized by the Niger**

50. The Niger recognizes the competence of the Court of Justice of ECOWAS. On 14 September 2007, for example, Hadijatou Mani Koraou, a citizen of the Niger, petitioned the Court to find that the Niger had violated her rights (slavery). The Court found in the young woman's favour and ordered the State to pay her CFAF 10 million in compensation for the harm she had suffered. The State complied with the order.

### **C. Framework for the promotion of human rights at the national level**

#### **National and regional parliaments and assemblies**

51. Parliamentarians contribute to the promotion of human rights by facilitating the ratification of international treaties and by monitoring government initiatives through formal and oral questions about alleged human rights violations. They undertake parliamentary inquiries to verify violations brought to their attention.

52. Parliamentary information, training and awareness-raising days are organized to strengthen parliamentarians' capacities. Against that backdrop, the Ministry of Justice, in collaboration with its technical and financial partners, intends to organize, as part of its workplan, an education and awareness-raising day for parliamentarians on the topic of human rights standards.

53. After the coup d'état of February 2010, the National Commission for Human Rights and Fundamental Freedoms was dissolved and was later replaced by the National Observatory for Human Rights and Fundamental Freedoms, an administrative body responsible for ensuring the protection and effective realization of rights and freedoms. The Observatory, established on 30 March 2010 pursuant to Ordinance No. 2010-27 of 20 May 2010 as amended by Ordinance No. 2010-45 of 20 July 2010, began its work in September 2010. It has 12 members, including 10 from civil society (the Bar Association, the Confederation of Women's Associations for the Promotion and Protection of Human Rights, the press, the faculty of economic science and law, the Medical Association, trade unions, the Federation of Organizations and Associations for the Protection of Human Rights and the Promotion of Democracy, and the Association of Traditional Leaders).

54. In 2012, the Observatory was replaced by the National Human Rights Commission, which is provided for under article 44 of the Constitution. The Commission, an independent administrative authority established in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles),



is responsible for promoting and ensuring rights and freedoms. The law requires the Commission to submit an annual report on human rights to the National Assembly.

### **Dissemination of human rights instruments**

55. The following awareness-raising and educational activities have been carried out in recent years:

- Training for senior personnel in all ministries on a human-rights-based approach and on the treaty bodies;
- Training for members of the interministerial committee on the drafting of initial and periodic reports for United Nations human rights mechanisms;
- Training for the defence and security forces on human rights;
- Training and awareness-raising for NGOs on the universal periodic review;
- The introduction in 2006 of the “16 Days of Activism” campaign (25 November–10 December) on human rights in general and women’s rights in particular, an initiative of a framework for coordination bringing together representatives of the State, civil society and technical and financial partners;
- The “defence caravan”, composed of lawyers who provide free legal services to defendants and the general public;
- The “justice caravan”, composed of communicators and legal experts who participate in awareness-raising activities concerning the rights of women and children (open days in courts, debates, film screenings and the like).

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

56. Civil society plays a leading role in the promotion and protection of human rights in the Niger. The Government, mindful of that role, has taken various steps to facilitate the establishment and work of NGOs. Article 8 of Ordinance No. 84-06 of 1 March 1984 on associations provides that associations of natural persons are to be formed freely by common consent, provided that notification is given and authorization obtained, and have legal capacity.

57. To encourage participation in political and public life, the Niger has established various mechanisms for social dialogue and consultation, in particular the National Council for Political Dialogue and the National Commission for Social Dialogue, and has promoted systematic involvement in national institutions by members of civil society.

58. As at 31 December 2010, there were 1,167 NGOs and development associations in the Niger.

### **Development cooperation and assistance**

59. Although it is a developing country with a high poverty rate, the Niger is working hard to promote and protect human rights. At the international level, this cooperation can be seen in the ratification of international human rights instruments and efforts to submit reports to treaty bodies in order to foster the exchange of views on the challenges facing the Niger in that regard. The Niger is also party to a number of other conventions, including those of ILO. It enjoys the support of technical and financial partners present in the country, including the United Nations Development Programme (UNDP), the United Nations Children’s Fund (UNICEF) and other United Nations entities. They are active in all areas, including health, education, the environment and human rights education.

60. Since 2008, the Office of the United Nations High Commissioner for Human Rights, in collaboration with the United Nations country team in the Niger, has provided support for the Action 2 Project in partnership with the Ministry of Justice, UNDP, UNICEF, the United Nations Population Fund, the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and the World Food Programme.

61. The country also participates in international meetings — those in Rabat and Dakar on the universal periodic review, for example — where it draws inspiration for good practices for the promotion of human rights.

62. In 2010, a delegation from Benin visited the Niger as part of an exchange of experience in protecting children in conflict with the law and providing access to justice for abused children.

63. Every two years, as part of its efforts to promote female leadership and the advancement and empowerment of African women, the Niger organizes a crafts fair for women.

64. As part of the promotion of children's right to leisure and culture, the Niger organizes an annual festival for the subregion's children. They come together for a week of recreational, athletic and cultural activities.

#### **D. Preparation of reports at the national level**

65. As part of the preparation and submission of reports to monitoring bodies, the Niger, in partnership with the United Nations country team, has initiated consultations with national partners and undertaken discussions on the need to set up a body to draft its country reports for treaty bodies. This approach has been taken because the Niger has fallen considerably behind in its compliance with its international commitments.

66. It was therefore decided to establish an interministerial committee as part of a participatory approach aimed at ensuring the cooperation of all State bodies.

67. In this connection, training courses for the senior personnel of ministries and institutions were held from 10 to 13 November 2009 in Niamey on mechanisms for the preparation of initial and periodic reports for treaty bodies, and an Interministerial Committee was established pursuant to Order No. 13/MJ/DH/DDH/AS of 17 March 2010.

68. The Committee's objectives are set out in article 3 of the Order. Its 25 members are appointed in accordance with Order No. 31/MJ/DH/DDH/AS of 30 April 2010, and the Committee officially began its work on 12 May 2010 with an opening ceremony organized by the Ministry of Justice in conjunction with the United Nations country team in the Niger.

69. Broad-based consultations are organized with the help of regional workshops so as to involve all the regions in the process. For example, local and regional personnel, NGOs and human rights organizations throughout the country were involved in the preparation of the national report of the Niger for the universal periodic review. The Niger intends to continue involving public entities at the national, regional and local levels in the preparation of its reports.

70. NGOs and associations are involved in all phases of the process:

- They are made aware and kept informed of reports during the drafting stage.
- They participate in the evaluation of reports in national workshops.
- They are involved in monitoring the actions taken to implement recommendations.

71. The reports are evaluated by national workshops before being forwarded to the Government for adoption through a decree issued by the Council of Ministers.

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

#### **Non-discrimination and equality**

72. As a party to many international human rights instruments, the Niger in its Constitution reaffirms its commitment to the rule of law. Article 8 provides that the Republic of the Niger is a State governed by the rule of law; that it ensures equality for all before the law, regardless of sex or social, racial, ethnic or religious origin; that it respects

and protects all beliefs; and that no religion or belief may claim political power or interfere in the affairs of the State.

73. Article 117 states that justice is to be rendered in the Niger on behalf of the people and in strict compliance with the rule of law and the rights and freedoms of every citizen. The decisions of the courts are binding on all, public authorities and citizens alike, and may be challenged only in accordance with the procedures and in the manner prescribed by law. Article 118 states that in the exercise of their functions, judges are independent and are subject only to the authority of the law.

74. Persons who believe that their rights have been violated may apply to the courts for compensation. If the application is turned down, legal remedies are available in accordance with the law. The judicial and institutional structures put into place for that purpose offer a better framework for ensuring equality. They include:

- The police and the gendarmerie, which carry out preliminary inquiries;
- The courts; the law provides for and guarantees the principles of a fair trial, including the rights of the defence, the legality of criminal offences and penalties, and the presumption of innocence. If necessary, appeals may be lodged.

75. Like the National Human Rights Commission, the Directorate for Human Rights and Social Welfare, the Directorate General for Child Protection, Social Development and Humanitarian Action and the Directorate General for Advancement of Women and Gender Equality are empowered to promote and eliminate all forms of discrimination, in particular with regard to vulnerable groups.

76. The Criminal Code contains provisions on discrimination, including the following:

- Article 102 states that any act of racial or ethnic discrimination and any regionalist propaganda or manifestation contrary to freedom of conscience or worship that is likely to set persons against each other is punishable by 5 years' imprisonment and a restricted residence order. Where the purpose or effect of the act of racial or ethnic discrimination or regionalist propaganda or the manifestation contrary to freedom of conscience or worship is the commission of a crime or offence against State security or the territorial integrity of the Niger, the perpetrator or instigator of the act is to be prosecuted as an accomplice or an accessory, depending on the case.
- Article 208.3 states that the following grave breaches, involving acts or omissions that 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 the Conventions, adopted in Geneva on 8 June 1977, constitute war crimes punishable in accordance with the provisions of the chapter containing the article: practices of apartheid and other inhuman and degrading practices involving outrages upon personal dignity, based on racial discrimination.

77. To reduce economic, social and geographic disparities between rural and urban areas, the Niger has opted for decentralization as a means of organizing and governing the country.

### **Vulnerable groups**

78. The vulnerable groups to which the authorities devote particular attention include children, women, persons with disabilities and older persons.

### **Children**

79. Article 21 (2) of the Constitution of 25 November 2010 stipulates that the State and the public authorities have a duty to ensure the physical, mental and moral health of the family, in particular mothers and children.

80. Under article 22, the State must take measures to combat violence against women and children in public and private life.

81. Article 24 provides that the State and the public authorities must protect the country's youth from exploitation and abandonment. The State ensures the material and

intellectual development of young persons. It promotes their training, their employment and their integration into the world of work.

82. Despite this favourable child protection framework, a number of situations still adversely affect children's rights.

83. In 2012, the proportion of children under the age of 5 whose births had been registered was 64 per cent (60 per cent in rural areas and 92 per cent in urban areas).

84. Child labour is a reality in the Niger. In 2012, 48 per cent of children between the ages of 5 and 14 worked, down from 70 per cent in 2000. There is a considerable difference between rural areas, where 51 per cent of children work, and urban areas, where 30 per cent do. Many children, such as those who are 5 to 17 years old and work at the gold washing sites in Komabangou and Mbanga, do hazardous work.

85. In 2006, the regional directorates of the Ministry of Population, Advancement of Women and Protection of Children identified 11,042 children in street situations. According to the Multiple-Indicator Demographic and Health Survey, in 2006, 31 per cent of children were separated from at least one of their biological parents, up from 17.4 per cent in 2000. Children in State care are entrusted to the Care Centre for Children with Family Difficulties in Niamey. In 2008, the Centre admitted 38 children, up from 17 in 2000.

86. As for children in conflict with the law, in 2012, the number of minors detained in the country's 38 prisons was 237, of whom 90 per cent were boys.

87. In the Niger, girls marry very early. According to the results of the Multiple-Indicator Demographic and Health Survey, the median age at first marriage is 15.5 years for women and girls and 23.1 years for men and boys. Almost a quarter (24 per cent) of all girls and women in the age group 15–19 marry before they reach the age of 15, and more than three quarters of women (77 per cent) before the age of 18. Progress in this area remains relatively slow, with a slight decrease — on the order of four percentage points — in the number of girls married before the age of 15 between 2006 and 2012 and the stabilization of the percentage of women married before the age of 18 at around 77 per cent. In 2012, the national prevalence of female genital mutilation/excision was 2 per cent, less than half the 1998 figure of 5.6 per cent.

## Women

88. The promotion and protection of women's rights are of constant concern to the authorities. The revision of the Criminal Code in 2003 took certain women's issues into account. Sexual harassment, female genital mutilation, slavery, procuring, incitement to immorality and rape, for example, are severely punished by the law.

89. The Quota Act is a major piece of legislation on the promotion of women's rights. Work has also begun on a personal status code. Its adoption continues to be the subject of debate. Two major policies help make it possible for women to exercise their rights: the National Gender Policy, adopted in 2008, and the National Policy on Social Development, which includes the advancement of women in one of its sectoral strategies.

90. Despite these measures, violence against women persists.

91. It is difficult to gauge the extent of physical, verbal and psychological violence in the Niger, as there are no official statistics on it. A number of studies nonetheless show that it is an everyday part of women's lives.

92. In addition to these forms of violence, there are customary forms of violence that are tolerated by society, such as repudiation and forced marriage.

93. By custom, women from some ethnic groups are denied access to some kinds of property, including land, when inheritances are divided.

94. Examples of other forms of violence include exploiting women economically by depriving them of essential property, preventing them from engaging in development activities, subjecting domestic workers to ill-treatment and trafficking in human beings.

### Persons with disabilities

95. As a party to the Convention on the Rights of Persons with Disabilities, the Niger guarantees the rights of persons with disabilities in accordance with articles 22 and 26 of the Constitution, as follows:

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

...

Article 26: The State must ensure equality of opportunity for persons with disabilities with a view to their advancement and (or) social integration.

96. Ordinance No. 93-012 sets out the minimum rules for the social protection of persons with disabilities. Pursuant to the Ordinance, two decrees were issued in 2010, one of which established the National Committee for the Advancement of Persons with Disabilities. In addition, article 9 of Decree No. 96/456/PRN/MSP provides for 100 per cent coverage of consultation and hospitalization costs for persons with disabilities in national hospitals.

97. Under article 21 of the Ordinance, all public or private establishments with at least 20 employees are required to reserve 5 per cent of jobs for persons with disabilities. The implementation of this article facilitated the employment of 225 graduates with disabilities during the period 2007–2012.

98. According to the *World Report on Disability*, published by the World Health Organization in 2011, persons with disabilities constitute 15 per cent of the general population, and a significant proportion (33.5 per cent) of children have more than one disability. According to the results of the 2001 general population and housing census, persons with disabilities account for 0.73 per cent of the population of the Niger (44,025 men and 36,010 women). Girls account for 45 per cent of children with disabilities. The most common disabilities are lower limb infirmity (13.37 per cent), deafness (10.61 per cent), blindness (11.47 per cent) and intellectual impairments (10.23 per cent). A significant proportion of children (33.44 per cent) have more than one disability.

99. Persons with disabilities also suffer from stigmatization. In some cases, moreover, they are discriminated against in employment.

### Older persons

100. The State accords particular attention to older persons. Article 25 of the Constitution stipulates that the State must ensure that older persons are covered by a social protection policy. The law establishes the conditions and procedures for such protection. In addition, the Government has established a department for older persons at the Ministry of Population, Advancement of Women and Protection of Children, which is responsible for developing and implementing laws and regulations on the rights of older persons. In that regard, and in accordance with the above-mentioned provisions of article 25 of the Constitution, a bill on the protection of older persons is being drafted.

## Part Two Data

### The sale or transfer of children for the purpose of sexual exploitation

101. Article 11 of the Constitution of 25 November 2010 states: “Human beings are sacred. The State has an absolute obligation to respect and protect them.”

102. Article 24 provides that the State “ensures that young people are protected against exploitation and neglect. The State shall also help young people to receive training and find employment”.

103. In addition, the Civil Code affirms that human beings cannot be sold.

104. It is a general principle of law that the sale of the human body is prohibited. Any agreement relating to such a transaction would therefore be null and void.

105. These provisions show that the legislation of the Niger neither recognizes nor permits the sale of a human being or, by extension, a child, on any grounds whatsoever.

106. The offence of the transfer of children is addressed by Ordinance No. 2010-86 of 16 December 2010 on combating trafficking in persons, article 10 of which states:

The offence of trafficking in persons means the recruitment, transportation, transfer, harbouring or receipt of persons by threatening to use, or using, force or other means of coercion, or by kidnapping, fraud, deceit, abuse of authority or of a situation of vulnerability, or giving or accepting payments or advantages in order to obtain the consent of a person holding a position of authority over another for the purpose of exploitation.

Exploitation includes, at the very least, slavery or slavery-like practices, servitude, removal of organs, exploitation of the prostitution of others and other forms of sexual exploitation, exploitation of the begging of others, and exploitation of forced labour or services.

The recruitment, transportation, transfer, harbouring or receipt of a minor under the age of 18 for the purpose of exploitation shall be considered to be trafficking in persons even if it does not involve any of the means set forth in the first subparagraph.

Anyone who intentionally commits the offence of trafficking in persons shall be sentenced to a prison term of 5 to 10 years and ordered to pay a fine of CFAF 500,000 to 5,000,000.

107. In accordance with this provision, the transfer of children, irrespective of the purpose for which they are being exploited, constitutes trafficking and is punishable as such.

108. No data are available on the sale or transfer of children for the purpose of sexual exploitation.

#### **Transfer of the organs of children for profit**

109. Article 10 of Ordinance No. 2010-86 states:

The offence of trafficking in persons means the recruitment, transportation, transfer, harbouring or receipt of persons by threatening to use, or using, force or other means of coercion, or by kidnapping, fraud, deceit, abuse of authority or of a situation of vulnerability, or giving or accepting payments or advantages in order to obtain the consent of a person holding a position of authority over another for the purpose of exploitation.

Exploitation includes, at the very least, slavery or slavery-like practices, servitude, removal of organs, exploitation of the prostitution of others and other forms of sexual exploitation, exploitation of the begging of others, and exploitation of forced labour or services.

The recruitment, transportation, transfer, harbouring or receipt of a minor under the age of 18 for the purpose of exploitation shall be considered to be trafficking in persons even if it does not involve any of the means set forth in the first subparagraph.

110. The transfer of children for profit is therefore prohibited under national legislation.

#### **Engagement of children in forced labour**

111. Child labour is a reality in the Niger. Although 70 per cent of children were estimated to be working in 2000, a national survey on child labour conducted by the National Institute of Statistics found that 50.4 per cent of children between the ages of 5 and 17 were economically active in 2009. Child labour is more prevalent in rural than in

urban areas. The proportion of economically active children is 58.7 per cent in rural areas, 10 per cent in Niamey and 32.7 per cent in other urban areas.

112. Children between the ages of 5 and 17 are involved in hazardous work at mines, quarries and gold-panning sites. By Order No. 601/MFP/T/DGT/DTOP of 7 May 2012, repealing Order No. 1369/MFP/DGATE/FPC of 24 September 2007, the Government established a national steering committee on combating child labour that reports to the Ministry of Labour. The committee coordinates all activities relating to the fight against child labour and acts as a consultative, advisory, monitoring and evaluation body. The activities carried out by the State through this committee are supported by ILO and the International Programme on the Elimination of Child Labour. They include the annual celebration of the World Day against Child Labour as a way of raising public awareness. They are conducted on a rotating basis in the various regions of the country, with a particular focus on regions where child labour is more prevalent.

113. In order to strengthen the legal framework, the Government has adopted a new Labour Code, through Act No. 2012-48 of 25 September 2012, which incorporates the provisions of the ILO Minimum Age Convention, 1973 (No. 138) and the ILO Worst Forms of Child Labour Convention, 1999 (No. 182).

114. More than 25 action programmes and mini-programmes have been carried out, and as a result some 4,500 children (45 per cent of whom were girls) have been rescued from the worst forms of exploitation and enrolled in schools, vocational and apprenticeship training centres or centres for social and vocational reintegration.

115. These efforts were made possible with the help of various stakeholders, including State bodies, NGOs, associations and employers' and workers' organizations.

#### **Number of children adopted through the efforts of intermediaries using methods incompatible with article 21 of the Convention**

116. The Civil Code does not provide for the adoption of children through intermediaries. In practice, however, intermediaries are known to be involved in the field. It is difficult to provide figures on the practice as, owing to its informal nature, the services responsible for protecting children (child protection services, the police, the judiciary) provide no statistics on it.

117. Although the Niger has not ratified the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, it strictly regulates the practice of adoption, over which the judiciary has sole jurisdiction. The Civil Code recognizes simple adoption (arts. 343 and 367) and plenary adoption (arts. 368–370), both of which are subject to certain conditions. However, a practice known as *confiage* (fosterage), whereby parents entrust their children to relatives or friends, is known to take place. This practice, which communities and families undertake in order to strengthen ties of solidarity and mutual aid within society, is not regulated.

118. Other forms of informal adoption are carried out for hidden purposes, such as trafficking, the sale of children and other forms of abuse and exploitation.

#### **Indicators for gauging the number of child victims of trafficking and all forms of exploitation (including prostitution and pornography)**

119. Indicators for gauging the number of child victims of trafficking are not yet available. However, the protection services report that children are used in national and international prostitution and pornography networks, some of which have been broken up by the police. Aware of the shortcomings identified in this area (which include the absence of a data collection system), the State has sought to tackle the problem by setting up structures such as the National Coordinating Commission against Trafficking in Persons and the National Agency to Combat Trafficking in Persons. These bodies are working to establish indicators that will enable the collection of reliable information on the scale of the phenomenon so that appropriate action can be taken to combat it.

**Information on the types of exploitation for which such children are trafficked**

120. In accordance with article 10 (2) of the Ordinance adopted on 16 December 2010, the various forms of exploitation include slavery or slavery-like practices, servitude, the removal of organs, the exploitation of the prostitution of others and other forms of sexual exploitation, the exploitation of the begging of others, and the exploitation of forced labour or services.

**Increase or decrease in these practices**

121. No data are available.

**Number of persons under the age of 18 engaged in prostitution**

122. No data are available.

**Increase or decrease in child prostitution or any specific forms of child prostitution over time**

123. No data are available.

**Child prostitution linked to sex tourism**

124. No data are available.

**Information on child pornography**

125. No data are available.

**Photographs and other printed materials**

126. No data are available.

**Videos, motion pictures and electronically recorded materials**

127. No data are available.

**Internet sites containing photographs, videos, motion pictures or animated productions depicting or advertising child pornography**

128. No data are available.

**Live performances**

129. No data are available.

## **I. General measures of implementation**

**Legislative framework intended to give effect to the Optional Protocol**

130. With regard to the legal framework intended to implement the Optional Protocol, it should be borne in mind that the sale and prostitution of children and the exploitation of prostitution are punishable under national law. It is a general principle of law that the sale of the human body is prohibited and that any agreement relating to such a transaction would therefore be null and void. In order to counter the phenomenon, the law of the Niger prohibits slavery and slavery-like practices, which, depending on the circumstances and, in particular, on the gravity of the acts committed against children, are treated as a major or lesser crime.

**Jurisprudence on the sale of children, child prostitution and child pornography**

131. The Niger ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in 2004 and adopted a law on trafficking in persons in 2010. Despite the existence of this legal framework, no



jurisprudence in this area has yet been established. However, several cases have been brought by the courts against alleged perpetrators of the sale of children, child prostitution and child pornography.

#### **Government departments and bodies**

132. The government departments or bodies having primary responsibility for the implementation of the Optional Protocol and the mechanisms established or used to ensure coordination between them, the relevant regional and local authorities and civil society, including the business sector, the media and academia, include some regional child protection networks. These networks are responsible for combating the sale of children, child prostitution and child pornography.

133. The establishment of the National Coordinating Commission for Efforts to Combat Human Trafficking, the appointment of its members and the establishment of the National Agency to Combat Human Trafficking will make it possible to monitor the implementation of the Protocol. So will the mechanisms to be put in place to ensure coordination between the public entities primarily responsible for the implementation of the Protocol, the competent regional and local authorities and civil society, including the business sector.

#### **Dissemination of information and training provided to professional groups**

134. During campaigns to raise awareness of the Convention on the Rights of the Child, the Optional Protocol on the sale of children, child prostitution and child pornography was widely disseminated. An action plan for the implementation of the recommendations contained in the Protocol on combating the sexual exploitation of children has also been adopted. The launching of this plan provided an opportunity to raise awareness of those parts of the Protocol.

#### **Evaluation mechanisms and procedures**

135. The regional child protection networks provide the mechanisms and procedures used to collect and evaluate data and other information on the implementation of the Protocol on a periodic or continuing basis. The local committees provide care services, take part in preparing micro-projects and carry out awareness-raising activities aimed at children. They are spaces in which stakeholders involved in the protection of children can think and act.

136. A national forum on the child protection system is organized every year by the Ministry of Population, Advancement of Women and Protection of Children to assess actions in the area of child protection.

#### **Budgetary resources allocated to the various activities of the State party related to implementation of the Protocol**

137. Although budgetary allocations are made available for the protection of children, the general budget does not contain a special item for the implementation of the Protocol.

#### **Overall strategy of the State party for the elimination of the sale of children, child prostitution and child pornography and the protection of victims**

138. The Niger does not yet have specific strategies for the elimination of the sale of children, child prostitution and child pornography. In accordance with the overall strategy for the protection of the child, which is based on regional child protection networks and local child protection committees, these crimes are prohibited, and care is provided to child victims. Plans are in place to develop a national action plan for combating trafficking in persons, especially women and children. The priority actions contained in this plan will include the reform of the Criminal Code to criminalize, in national law, the sale of children, child prostitution and child pornography. In addition, the national policy on combating trafficking in persons, which will be established in the plan in the form of actions, will address the sale of children, child prostitution and child pornography. When this policy is drawn up, comprehensive strategies will be created and transformed into priority actions intended to restrict or eliminate these crimes.

**Contributions made by civil society to efforts to eliminate the sale of children, child prostitution and child pornography**

139. Several NGOs and associations, including the Sponsorship and Development Action School, the National Association for Tackling Delinquency and Lafia Matassa, are active in the fight against trafficking in children, child prostitution and other forms of violence against children.

**Role played by statutory ombudspersons for children and similar autonomous public institutions advocating for the rights of children in implementing the Protocol or in monitoring its implementation**

140. The National Human Rights Commission was established by Act No. 2012-44 of 24 August 2012. Its functions, which are set out in articles 19, 20 and 21, are to examine complaints, to take action on its own initiative and investigate cases of human rights violations, to ensure respect for human rights, to raise citizens' awareness of their rights and to draft and implement human rights education programmes.

## II. Prevention

**Methods used to identify vulnerable children (children in street situations, girls, children in remote areas and children living in poverty)**

141. In the Niger, as in most underdeveloped countries, children constitute one of the most vulnerable social groups. This vulnerability stems not only from their stage of physiological development but also, and above all, from the limited resources of families and the State.

142. The main legal instruments relating to child protection services and family well-being are Ordinance No. 99-11 of 14 May 1999 on the establishment, composition, organization and jurisdiction of juvenile courts, the 2009 national child protection policy, and the new national guidelines on caring for children in vulnerable situations, drafted and adopted in 2010.

143. The Ordinance regulates the judicial protection of children and authorizes juvenile court judges to try cases involving children in need of protection or in conflict with the law. It authorizes judges to impose protective measures in cases where the health, safety or moral well-being of children are threatened or their education is compromised. These measures may involve the child's receiving advice and support from a qualified person (psychological and educational follow-up) or being placed in alternative care.

144. To ensure that the system functions effectively, the Educational, Preventive and Judicial Services (SEJUP), established by Order No. 8/MPF/PE of 30 April 2007, work closely with juvenile court judges at the regional and departmental levels. The Services' mandate is broad and includes the provision of prevention, early intervention and protection services for all children at risk. The actions currently carried out by them include duty-officer schemes, health monitoring, street work, educational activities in open institutions, prison visits, family visits and the returning of children to families.

145. In addition to these integrated services, there are many laws, strategies and action plans that govern services for particular categories of children, such as child victims of trafficking, child labourers, orphans and other children made vulnerable by HIV/AIDS.

146. It is important to highlight that the purpose of the national child protection policy is to establish a protective environment that will help to prevent and combat violence, abuse and the exploitation of children. The policy has eight goals, four of which are of a general nature (promoting appropriate legislation, encouraging the participation of children, and monitoring, evaluating and promoting integrated early childhood development) and four of which apply to specific groups of children (child victims of violence, including harmful traditional practices, orphans and children made vulnerable by HIV/AIDS, exploited children and children in conflict with the law).

147. The process of drafting this policy does not appear to have been especially inclusive. Since its adoption, the national child protection policy has not been an effective or appropriately run framework for the various stakeholders involved in child protection. The system has moved towards the adoption of a framework document on child protection that brings together all the sectoral strategies and is intended to replace the national child protection policy.

148. In 2010, the Ministry of Population, Advancement of Women and Protection of Children introduced a new framework for all government and non-government stakeholders involved in caring for children in vulnerable situations. Although they are partly aimed at specific groups (such as children in street situations), the new national guidelines for the care of children in vulnerable situations promote an integrated approach to all forms of violence, abuse and exploitation of children and highlight the importance of adopting a comprehensive approach to the provision of goods and services for all children in the community rather than targeted groups defined by specific requirements.

149. The new national guidelines provide guidance to service providers on the early warning system, including mechanisms for identifying vulnerable children in their communities. They also provide guidance on reporting, on producing individual studies of particular children and on the action plans and types of action that should be made available to children and families. The new guidelines promote the strengthening of traditional mechanisms for the protection and care of children, including the inclusion of traditional leaders in the care process, and highlight the importance of strengthening the family. They make use of a hierarchy of intervention levels, of which the highest, the judicial level, is considered to be the last resort when administrative measures have failed to resolve a situation, a child has no family supervision, or a child's physical or psychological integrity is at risk. Children are placed in institutions only as a last resort and only when official authorization has been granted.<sup>1</sup>

150. As these guidelines were launched only recently, they have not been included in the legal framework and address only one aspect of the issue of child protection, namely care.

151. Despite this legal framework, it must be acknowledged that the goals are far from being achieved. Children in street situations, children in remote areas, children living in poverty and other groups of vulnerable children are an ongoing reality.

152. Children in street situations are a feature of life in the Niger. In 2006, the regional offices of the Ministry of Population, Advancement of Women and Protection of Children identified 11,042 such children. According to the Multiple-Indicator Demographic and Health Survey, 31 per cent of children were separated from at least one of their biological parents in 2006, as compared to 17.4 per cent in 2000. Wards of the State are entrusted to the Care Centre for Children with Family Difficulties in Niamey. In 2008, the Centre admitted 38 children, up from 17 in 2000.

153. No specific study focusing on children in remote areas has been carried out.

154. In 2008, a study of children living in poverty was conducted by the Ministry of Population, Advancement of Women and Protection of Children and the National Institute of Statistics, with financial support from UNICEF.

155. Information on these categories of children is primarily generated by sometimes piecemeal surveys and studies rather than by a systematic monitoring system implemented by State bodies.

#### **Raising public awareness of the harmful consequences of the sale of children, child prostitution and child pornography**

156. Almost all awareness-raising measures and campaigns are carried out in partnership with NGOs and associations for the protection of children's rights. More than 100 NGOs and national associations, often organized in networks (the Coalition of African NGOs working with Children, the Coalition of Organizations of the Niger for the Rights of the

<sup>1</sup> Source: Cartographie de la protection (Mapping of protection).

Child), carry out actions to protect children's rights, with a particular focus on awareness-raising, the provision of care for children in difficult circumstances, the social and professional reintegration of children with disabilities and victims of abuse, assistance to child victims of trafficking and abuse, the drafting of a code of conduct for employers and landlords of young girls in domestic service and the drafting of a compendium of texts on persons with disabilities.

**Programmes targeting any specific groups other than children and the general public (tourists, transportation and hotel workers, adult sex workers, members of the armed forces, correctional personnel)**

157. No data are available.

**The role played by non-governmental organizations, the media, the private sector and the community, in particular children, in the design and implementation of awareness measures**

158. No data are available.

**Steps taken to measure and evaluate the effectiveness of efforts to raise public awareness and implement relevant programmes**

159. Within their areas of competence, the National Coordination Commission for Efforts to Combat Human Trafficking and the National Agency to Combat Human Trafficking adopt policies and programmes for the prevention of such trafficking and ensure that they are implemented. These programmes may have an international component and require the cooperation of other States parties. In the framework of the national action plan, the National Agency to Combat Human Trafficking develops and carries out awareness-raising, training and education campaigns in order to reduce the recurrent risks of trafficking in persons, including by:

- Establishing counselling and advisory units;
- Setting up anti-poverty programmes;
- Developing educational, social and cultural activities to promote social integration (arts. 4 and 5 of Ordinance No. 2010-86).

### III. Prohibition and related issues

**Information on the prevailing criminal laws defining and governing the acts and activities enumerated in article 3 (1)**

160. Paragraph 1 of this article enumerates the acts that States parties are required to criminalize in their legislation in order to give effect to the provisions of the Protocol. Each State party shall ensure that, at a minimum, the following acts and activities are fully covered by its criminal law, whether these offences are committed domestically or transnationally, on an individual or organized basis:

- (a) *In the context of the sale of children as defined in article 2: offering, delivering or accepting a child, by whatever means, for the purpose of sexual exploitation of the child*

161. First, it should be borne in mind that the Criminal Code criminalizes slavery (vol. II, part III, chap. 6, sect. 2 bis, para. 1, arts. 270.1–270.5) and provides for fines and prison terms ranging from 10 to 30 years, with the possibility of widening the scope of penalties in the event of aggravating circumstances.

162. The criminal law of the Niger defines various forms of slavery, including the situation in which a woman is forced to enter into, or given in, marriage and is thereby handed over to a third party, or is forced to have sexual relations with a master in exchange for money or goods. The woman may be a minor and thus covered by the provisions of the Protocol.

163. Specifically with regard to children, under the law of the Niger, slavery encompasses all the institutions and practices whereby minors under the age of 18 are given, whether by their parents/guardians or their masters, to a person, whether or not in exchange for money, with a view to exploiting the minor for work purposes.

164. Moreover, slavery is considered a crime against humanity, and the forcible transfer of children can, under certain conditions, be considered genocide (vol. II, part III, prelim. chap., sect. 1, arts. 208.1 and 208.2).

165. In addition, the Criminal Code criminalizes rape, which it defines as “any act of sexual penetration, in any form, committed on another person by means of violence, coercion, threat or surprise” (art. 281.1). Stricter penalties are applicable when the victim is under the age of 13.

166. In dealing with prostitution in general — including that of children, for which the penalties are heavier — the Criminal Code defines and punishes the prostitution of others, soliciting, the sharing of profits from prostitution, cohabitation with a person who regularly engages in prostitution, the maintenance of regular contact with a person engaged in prostitution without the provision of evidence of having financial resources of one’s own, and the act of serving as an intermediary between prostitutes and those who prostitute them.

167. Impeding the prevention, monitoring, assistance or rehabilitation efforts of entities specializing in prevention and in assisting prostitutes is punishable by a prison term of 6 months to 3 years, with the possibility of a longer prison term of 2 to 5 years if an act is committed on a minor or with the use of violence, coercion or fraud, or if the act is committed by a group or against more than one victim.

168. The Criminal Code also provides for the recognition of aggravating circumstances when victims are used for prostitution, or encouraged to engage in prostitution, in the Niger or in other countries; the law prohibits indecent acts against minors.

(b) *Engagement of the child in forced labour*

169. The Labour Code (Act No. 2012-45 of 25 September 2012) prohibits compulsory and forced labour (art. 4).

170. Article 107 of the Code stipulates that children under the age of 14 may not be employed, even as apprentices, unless a decree specially permits it. Violations of the law are punishable by a fine or a prison term of 6 to 10 days. Similarly, article 10 (4) of Ordinance No. 2010-86 criminalizes forced child labour and sets out harsher punishments for that practice.

(c) *Transfer of organs of the child for profit*

171. Article 10 of the Ordinance states:

The offence of trafficking in persons means the recruitment, transportation, transfer, harbouring or receipt of persons by threatening to use, or using, force or other means of coercion, or by kidnapping, fraud, deceit, abuse of authority or of a situation of vulnerability, or giving or accepting payments or advantages in order to obtain the consent of a person holding a position of authority over another for the purpose of exploitation.

Exploitation includes, at the very least, slavery or slavery-like practices, servitude, removal of organs, exploitation of the prostitution of others and other forms of sexual exploitation, exploitation of the begging of others, and exploitation of forced labour or services.

The recruitment, transportation, transfer, harbouring or receipt of a minor under the age of 18 for the purposes of exploitation shall be considered to be trafficking in persons even if it does not involve any of the means set forth in the first subparagraph.

172. Adoption for the purpose of trafficking (art. 17) and the organization and supervision of trafficking activities (art. 16) incur a prison sentence of, respectively, 4 to 10 years or 2 to 8 years if threats, violence or any other means of coercion are used.

173. The law does not specifically criminalize child pornography. However, indecent acts against children are considered crimes.

174. In addition to this specific law, the Criminal Code punishes violations of the physical integrity of persons, including children, by criminalizing the voluntary and involuntary infliction of injuries, manslaughter, murder and other capital crimes in articles 222 and those that follow.

**Material elements of all the covered offences, including references to the age and sex of the victim and to the perpetrator**

175. (See information on prevailing criminal laws provided in paragraphs 105–107, 110, 111, 122, 165–168, 172–174 and 176.)

**The maximum and minimum penalties that can be imposed for each of these offences**

176. (See information on prevailing criminal laws provided in paragraphs 108, 163, 169 and 175.)

**Applicable penalties for each of these offences and elements considered as mitigating or aggravating circumstances**

177. Article 29 of Ordinance No. 2010-86 enumerates the aggravating circumstances related to the commission of the offences covered in articles 10, 14–16 and 17 and the applicable penalties. The penalties range from 10 to 15 years in cases of assault and battery to twice the maximum penalty if the offender has evaded the administration of justice, is a repeat offender, has participated in the commission of other confirmed offences that facilitated the crime of trafficking, has committed multiple offences, or committed the offence in question in conjunction with the exercise of duties as a public servant.

178. The applicable penalty is 10 to 30 years' imprisonment if the offence is committed on a minor under the age of 18; if a relationship of trust exists between the victim and the perpetrator, including when the latter has abused his or her hierarchical position in the employment relationship; if the perpetrator is the victim's spouse; or if the perpetrator holds moral authority over the victim — for example, is the latter's legal representative or is responsible for the latter by virtue of being a social worker.

179. If the offences under articles 10, 14–16 and 17 of the Ordinance were committed under two or more aggravating circumstances, the applicable prison sentence is 15 to 30 years. This is the case for sexual abuse and rape; assault and battery resulting in the amputation or mutilation of a limb or the deprivation of its owner of the use of the limb, or blindness, loss of an eye or any other permanent disability; if the victim is particularly vulnerable, including if he or she is under the age of 13 or has a physical or mental disability; if the offence was committed by an organized group as part of systematic criminal activity, or over a long period of time or on a large scale involving several victims; and if prohibited weapons or drugs were used.

180. In addition, life imprisonment is incurred if the victim dies.

181. In all cases, the Ordinance provides that provisions concerning mitigating circumstances and suspended sentences cannot be applied.

**Statute of limitations for each of these offences**

182. In accordance with article 28 of Ordinance No. 2010-86, the applicable statutes of limitations are those specified in the Code of Criminal Procedure. This article also states that if the victim is under the age of 18 at the time of the offence, the time period used to apply the statute of limitations begins only on the date when the victim reaches legal adulthood.

**All other offences considered by the State party as being particularly relevant for the implementation of the Protocol**

183. All offences against human life and the person that are covered by the Criminal Code or by specific laws are systematically dealt with.

**Penalties applicable for attempts to commit the offences in question and for complicity and participation in such offences**

184. In accordance with article 15 of Ordinance No. 2010-86, the provisions of articles 48 and 49 of the Criminal Code are applicable with regard to the offences listed in the Ordinance.

**Obstacles to the implementation of the Protocol**

185. The Niger does not consider any legislation prevailing in the country to be an obstacle to implementation of the Optional Protocol.

**Legislation on the criminal liability of legal persons for the acts and activities listed in article 3 (1) of the Protocol**

186. Under article 31 of the Ordinance, legal persons are criminally liable for offences committed by them as stipulated in the Criminal Code. Where an offence referred to in the Ordinance has been committed by a legal person, or on its behalf or by its organs or representatives, with the exception of the State, it shall be punishable by a fine of CFAF 1 million to 10 million. The criminal liability of legal persons for particular acts does not release from liability natural persons who have committed or been accomplices to those acts.

187. Article 31 also states that the competent court may confiscate the assets of a legal person and have them transferred to the compensation fund for trafficking victims, or to the public treasury pending the establishment of the fund.

**Applicable bilateral and multilateral agreements and measures taken in the area of adoption (United Nations General Assembly resolution 41/85)**

188. There are still difficulties with regard to applicable bilateral and multilateral agreements, and to measures taken to ensure that all persons involved in proceedings involving the adoption of a child act in conformity with such agreements and with the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children (United Nations General Assembly resolution 41/85 of 3 December 1986).

189. The current context is favourable in this regard, and the National Coordinating Commission for Efforts to Combat Human Trafficking intends to treat as a high priority steps to ensure that the competent national authorities accede to the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption of 1993. The National Commission plans to initiate the signing of bilateral agreements to combat trafficking.

190. The Niger recognizes and practices adoption but is not yet a party to the Hague Convention. It intends to ratify the Convention in order to give full effect to the Optional Protocol and many other legal instruments whose purpose is to fight crime, including the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

**Legislative and other measures taken to prevent illegal adoption of children**

191. Regarding adoption for the purpose of trafficking, under article 17 of the Ordinance any intermediary who, in violation of national and international laws on adoption, inappropriately obtains the consent of the parents or any other person having authority over a child in order to have the child adopted, with a view to committing the offences listed in chapter 4 of the Ordinance, will be subject to the penalties mentioned in article 24 of the previously mentioned law on obstruction of justice. These penalties involve prison terms of

4 to 10 years in cases of attempted bribery and of 2 to 8 years when threats, violence or other means of coercion were used.

**Legal and other measures taken to prevent intermediaries from attempting to persuade mothers or pregnant women to give up their children for adoption**

192. No data are available.

**Regulation and licensing of agencies and individuals acting as intermediaries in adoption**

193. No data are available.

**Legislative and administrative measures taken to prevent the theft of young children and the fraudulent registration of births, including applicable criminal penalties**

194. No specific measures are in place except for offences under the Criminal Code such as forgery, the use of forged documents and the substitution of a child.

**Circumstances under which adoption may take place without the consent of a parent, along with all safeguards in place to ensure that any such consent will be given knowingly and freely**

195. In the Niger, adoption is governed by the Civil Code, which provides for two types of adoption for children who have been abandoned or separated from their parents: simple adoption (arts. 343 and 367) and full adoption (arts. 368–370).

**Measures regulating the fees charged by agencies, services or individuals in connection with adoption, limiting the amounts charged, and establishing penalties for non-compliance**

196. No data are available.

**Is the State party considering acceding to the Hague Convention, and why has it not yet done so?**

197. The Niger is a party to the Optional Protocol and recognizes and practices adoption, but is not yet a party to the Hague Convention. The Niger is naturally considering becoming a party to the Hague Convention and has developed a Children's Code that contains clear provisions to prevent informal adoption and set up an effective mechanism for monitoring adoptions. That will ultimately make it possible to regulate intercountry adoption, which is common in the Niger.

198. The reasons for the country's non-adherence to the Hague Convention have to do with the discretionary power of the Government.

**Legislation prohibiting the production and dissemination of material advertising any of the offences described in the Protocol**

199. No data are available.

**Applicable penalties**

200. No specific provisions exist other than those mentioned earlier.

**Information on the number of prosecutions and the number of convictions for such offences, disaggregated by type of offence**

201. No data are available.



### **Effectiveness of legislation in preventing advertising for the sale of children and for child prostitution and child pornography**

202. There are no indicators for measuring the effectiveness of legislation on preventing advertising for the sale of children and for child prostitution and child pornography, as institutions for that purpose were established only recently.

### **Legislative provisions relating to jurisdiction for offences under article 3 of the Protocol**

203. Under article 3 of Ordinance No. 2010-86, the courts of the Niger have jurisdiction in the following cases:

- When the offence has been committed on the national territory;
- When the offence has been committed aboard a vessel flying the country's flag or an aircraft registered under its laws;
- Under article 642 of the Code of Criminal Procedure, when the offence has been committed, in any place whatsoever, by a citizen of the Niger or by a stateless person residing habitually in the Niger;
- Under article 642 (1) of the Code of Criminal Procedure, when the offence has been committed against a national of the Niger;
- When the perpetrator has been apprehended in the Niger.

### **Legislative provisions for extraterritorial jurisdiction over such offences on the grounds mentioned in article 4 (2)**

204. The courts of the Niger also have jurisdiction when:

- The offence has been committed outside the territory of the Niger with a view to the commission on its territory of an offence cited in the previously mentioned Ordinance;
- The offence has had significant effects or consequences on the territory of the Niger.

### **Legislation, policies and practices of the State party concerning the extradition of persons accused of having committed one or more of the offences mentioned in article 3 of the Protocol**

*Please state whether an extradition treaty exists and any criteria applied in considering requests for extradition*

205. Extradition is covered in articles 68–80 of Ordinance No. 2010-86. These provisions cover, among other things, the principles applying to extradition, simplified procedures, provisions related to international cooperation, offences that may lead to extradition, the legal basis for extradition in the absence of an agreement, detention in urgent cases, legal proceedings, proceedings in cases of denial of extradition on the basis of nationality, the conditions for the return of the extradited person, the execution of any sentence handed down by the State of nationality, guarantees of a fair trial for the extradited person, refusal to extradite, and tax offences.

*Recognition by the State party of article 5 (2) as a sufficient basis for granting an extradition request*

206. The Niger has ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; it is thus bound by all of the Protocol's provisions. In addition, under article 72 of Ordinance No. 2010-86, in the absence of an extradition agreement between the State of the Niger and another State, article 16 of the United Nations Convention against Transnational Organized Crime shall provide the legal basis for any request for extradition between the Niger and any other State party to that instrument. Thus any provisions of article 5 (2) of the Protocol that are not incompatible with the provisions of that convention and national law can also be applied.

*Existence of treaties recognizing offences corresponding to the acts referred to in the Protocol as extraditable offences*

207. In the framework of ECOWAS there are conventions on extradition and mutual legal assistance in criminal matters between member States. The Niger ratified those conventions on 8 December 2005 and 25 October 2001.

*Refusal to extradite and grounds for refusal with the clarification that the persons concerned were brought before the competent authorities for the purpose of prosecution*

208. In the Niger, the denial of extradition and grounds for it are dealt with in articles 75 and 79 of Ordinance No. 2010-86.

209. Article 75 makes the following provision for prosecution in the case of a refusal to extradite that is based on nationality: "When a national of the Niger commits or is an accomplice to a crime punishable under the present Ordinance, and does so abroad, the person may be prosecuted in the Niger at the request of the State in which the offence was committed, provided that the acts would be treated as crimes in the Niger." Article 79 lists the cases in which the State of the Niger may refuse to extradite a person:

... if there are substantial grounds for believing that the request was made for the purpose of prosecuting or punishing a person because of his or her sex, race, religion, nationality, ethnic origin or political opinions, or that compliance with the request would cause harm to the person for any one of these reasons; if the person who is the subject of the extradition request risks being subjected to torture or to treatment that would under international law be considered inhuman or degrading; if the person whose extradition is requested has not received or would not benefit, during criminal proceedings, from the minimum guarantees outlined in article 14 of the International Covenant on Civil and Political Rights.

*Number of extradition requests, disaggregated by types of offence*

210. No data are available.

*Extradition requests to which the State party agreed*

211. No data are available.

*New laws or procedural rules concerning extradition and their effects on the extradition of persons accused of offences under article 3*

212. No data are available.

**International agreements constituting the basis for cooperation in investigations and in criminal and extradition proceedings**

213. At the international level, the Niger has had to implement the United Nations Convention against Transnational Organized Crime, which has resulted in the competent authorities' fulfilling all requests for legal assistance and extradition.

214. In the framework of ECOWAS there are conventions on extradition and mutual legal assistance in criminal matters between member States. The Niger ratified those conventions on 8 December 2005 and 25 October 2001.

**Legislation, policy and practice of the State party***Seizure and confiscation of materials, assets and other goods used to commit offences*

215. With regard to the seizure and confiscation of materials, article 35 of Ordinance No. 2010-86 states:

Seizure and confiscation are ordered in accordance with the law. The courts may order the seizure and confiscation of:

(a) Proceeds from offences covered by this law or goods whose value corresponds to that of such proceeds;

(b) Goods, materials and other instruments used in or destined for use in the commission of offences covered by the present Ordinance.

If the proceeds of a crime have been transformed or converted, in part or in full, into other property, such property shall be liable to the measures referred to in this article, replacing the proceeds.

If the proceeds of a crime have been intermingled with property acquired through legitimate means, such property shall, without prejudice to any powers relating to freezing or seizure, be liable to confiscation up to the assessed value of the illicit proceeds.

Income or other benefits derived from proceeds of crime, transformed or converted property, or property that has been intermingled shall also be liable to the measures referred to in this article, in the same manner and to the same extent as the proceeds.

When the confiscation of an object is ordered, ownership of the object or the right is transferred to the State at the moment when the decision acquires the force of *res judicata*.

The rights of bona fide third parties are not affected.

In agreement with the relevant authorities of the States concerned and, when necessary, in the framework of bilateral or multilateral agreements and arrangements, seizures and confiscations can have a transnational nature.

An alleged offender must demonstrate the lawful origin of alleged proceeds of crime and of other goods liable to seizure and confiscation.

#### *Seizure and confiscation of proceeds of crime*

216. On this point, see paragraphs 190 and 218.

#### *Closure of premises used to commit offences and satisfaction of requests by other States parties for the seizure and confiscation of materials, assets, means or proceeds described in article 7 (a) of the Protocol*

217. On this point, see paragraph 218.

## **IV. Protection of victims' rights**

### **Measures taken by the State party to implement article 8 of the Protocol**

218. The measures taken under article 8 of the Protocol are listed in articles 11–13, 17, 26, 27, 29 and 32 of Ordinance No. 2010-86. They relate to the absence of an acquiescence bias, proof of the age of the victim, the irrelevance of prior sexual conduct, adoption for the purpose of exploitation, the confidentiality of information relating to victims and witnesses, penalties for disclosing information about witnesses, aggravating circumstances and criminal immunity for victims.

219. There are also provisions covering civil claims for compensation, children's best interests and specific needs, the right to legal representation, information on relevant court and administrative proceedings, the right to an interpreter, the participation of victims in proceedings concerning them, the provision of testimony by children and particularly vulnerable persons as victims or witnesses, the protection of victims' privacy and identity, and confidentiality.

### **Legislation, policy and practice relating to the investigation of the offences covered by the Protocol**

220. Articles 46–49 of Ordinance No. 2010-86 address special techniques for investigating offences described in the Protocol. They include undercover operations, the

protection of informants and undercover agents, the monitoring of bank accounts, telephone lines, access to computer systems and document transmittal and the inapplicability of professional confidentiality rules.

**Regulations, guidelines and instructions adopted with a view to ensuring that, in the treatment by the criminal justice system of children who are victims of the offences described in the Protocol, the best interest of the child is a primary consideration**

221. These are specific measures applicable to children and particularly vulnerable persons. The national programmes developed to protect these target groups include the following measures:

- The guarantee of voluntary, safe return to the victim's family;
- Consideration of the victim's specific social and psychological needs;
- Guaranteed access, for victims who have returned to their countries, to basic rehabilitation and education services.

**Legislation, procedures and policies in place to ensure that the best interest of the child victim is duly identified and taken into consideration in criminal investigations and proceedings**

222. In accordance with article 37 of the Ordinance, when the victim of one of the offences defined in this law is a minor under the age of 18, the best interest and specific needs of the child must be taken into account throughout the proceedings by all public officials and especially persons authorized to investigate violations.

**Measures taken to ensure that persons who work with child victims receive appropriate legal and psychological training**

223. Health and social welfare services have units for dealing with child victims. Workers, as part of their induction training, receive general training in handling cases involving children. They are taught to provide health care, social services and psychological support.

**Measures in place to provide institutions, organizations, networks and individuals with the conditions necessary to perform their work free from interference and reprisals**

224. In the Niger, the action framework for the various actors mentioned earlier is determined by the Government through laws and regulations concerning State and civil-society actors, and for multilateral organizations and international NGOs it is determined through protocols and headquarters agreements.

**Special safeguards or compensatory measures taken or strengthened to ensure that measures designed to protect the rights of child victims do not have any undue impact on accused persons' right to a fair and impartial trial**

225. The right of child victims to protection is governed by articles 50–56 of Ordinance No. 2010-86. Compensation is available to victims under the Ordinance and pending the establishment of the special fund for compensation of victims provided for in article 97 of the Ordinance.

226. The right to a fair trial is guaranteed by the Code of Criminal Procedure.

**Public and private programmes designed to assist child victims with social reintegration**

227. In the framework of a project contributing to the elimination of child labour in French-speaking Africa (2006–2010), various activities have been carried out to combat child labour. During the reporting period, the following activities were carried out:

- In Maradi, support for the withdrawal of 50 female victims of sexual exploitation, all under the age of 18, in the village of Firji in December 2007;

- Recovery of 50 street children in the urban community of Niamey in April 2008;
- In Niamey, a nationwide study on child labour in the Niger in May 2008;
- Recovery and reintegration of 50 school-age children working at the refrigerated slaughterhouse in Zinder in April 2009;
- Support for the social and professional integration of 18 children working in fisheries in Kourtheye and a project to support the social and professional integration of 60 young people of the rural communes of Sakoirra, Anzourou, Dessa and Ayorou who had left school, in February 2010.

228. Through the implementation of these activities, nearly 320 children were shielded or rescued from the worst forms of child labour and either returned to school or benefited from other types of social and professional reintegration.

#### **Measures taken by the State party to help children recover their identities**

229. No data are available.

#### **Information on assistance with social reintegration, physical and psychological recovery and the recovery of identity provided to child nationals of the State party and children who are not nationals, or whose nationality is unknown**

230. No data are available.

#### **Available remedies and the procedures that victims can use to obtain compensation for damages**

231. With regard to civil claims for compensation, article 36 states:

In accordance with the Code of Criminal Procedure, courts shall order compensation to be provided to victims of the offences referred to in the present Ordinance.

Once the order to provide compensation has been issued, the compensation shall be made within a reasonable period of time. The judicial authorities may, provided they justify their decision, order confiscated property or amounts corresponding to their value to be used for the compensation and protection of victims of trafficking.

The return of victims to their country of origin does not prejudice their right to compensation.

Once the right of trafficking victims to compensation has been fulfilled, part of the value of any remaining confiscated property shall be assigned, through the government subsidies mentioned in article 10, to cover the operating costs of institutions combating trafficking, namely the National Coordination Commission for Efforts to Combat Human Trafficking and the National Agency to Combat Human Trafficking.

## **V. International assistance and cooperation**

#### **Multilateral, regional and bilateral agreements negotiated and signed by the State party**

232. In general, such agreements undertaken by the State party do not specifically address matters relating to the sale of children, child prostitution and child pornography. However, they do cover extradition and mutual legal assistance, which provide a context for addressing the more specific issues.

#### **Steps taken to put in place procedures and mechanisms for coordinating the implementation of such agreements**

233. ECOWAS has a mechanism for coordination among member States to assess the effectiveness of the implementation of the action plan to combat trafficking and protect

children. Member States are required to report annually on their implementation of the action plan so that ECOWAS can assess their efforts in this area.

#### **Results achieved through such agreements**

234. In addition to implementing the action plan, ECOWAS member States have established various bilateral cooperation agreements focusing on strengthening collaboration among police forces, judicial systems and multidisciplinary teams for the reception and care of victims.

#### **Promotion of cooperation and coordination between the State party and relevant regional and international organizations**

235. The instruments for international cooperation and coordination on child protection between the State party and relevant regional and international organizations are, at the ECOWAS level, the multilateral cooperation agreement and, at the international level, the United Nations Convention against Transnational Organized Crime.

#### **Measures taken by the State party to support international cooperation to assist in the physical and psychological recovery, social reintegration and repatriation of victims**

236. The measures envisaged, which are primarily protection measures, are outlined in article 53 of Ordinance No. 2010-86 and include medical and psychological assistance, financial support, assistance with resettlement or autonomy and the ability to obtain legal status. Article 54 of the Ordinance accords specific protection to children and vulnerable persons.

237. Victims are repatriated in accordance with article 63 of the Ordinance, which stipulates that certain conditions must be met before repatriation can proceed: the victim's safety after returning to the country of origin must be ensured, a reasonable time frame must be observed, the repatriation must be voluntary, and the victim must be in possession of all travel and other documents needed in order to travel and be readmitted to the country of origin.

#### **Contribution of the State party to international cooperation to address the root causes of the vulnerability of children to sale, prostitution, pornography and sex tourism, in particular poverty and underdevelopment**

238. The Niger makes its contribution in this area by participating in international seminars and conferences, by implementing the conclusions and recommendations of those conferences, and by complying with its international commitments under the treaties and conventions it has ratified. To help address poverty and underdevelopment, the Niger has made a commitment to the Millennium Development Goals set for 2015 and is working to implement policies, projects and programmes that can contribute to poverty reduction.

## **VI. Other legal measures**

#### **Provisions of international law considered by the State party as conducive to the realization of the rights of the child**

239. The provisions of international law considered by the Niger as conducive to the realization of the rights of the child are the Convention on the Rights of the Child and its Optional Protocols and the African Charter on the Rights and Welfare of the Child.

#### **Binding provisions of international law considered by the State party as conducive to the realization of the rights of the child**

240. The preceding observation also applies to this item.

---

**Status of ratification by the State party of the main international instruments concerning the sale of children, child prostitution and child pornography, and trafficking and sex tourism involving children, and any other international or regional commitments undertaken by the State party**

241. The Niger has ratified the Convention on the Rights of the Child and its Optional Protocol on the sale of children, child prostitution and child pornography. It is also a party to nearly all international legal instruments relating to human rights. It has also ratified a number of treaties and conventions in the context of the African Union and ECOWAS.

## **Conclusion**

242. The present report, which describes legislative and administrative measures and new policies for implementing the Optional Protocol, shows that since the ratification of the Protocol efforts have been made to protect children from sale, prostitution and pornography.

243. The State's commitment to protecting children against any form of abuse has resulted in noteworthy enhancements to the legal and institutional framework. The adoption of Ordinance No. 2010-86 on combating trafficking in persons has strengthened the national legal framework for combating trafficking in persons in general and children in particular. The establishment of the National Coordination Commission for Efforts to Combat Human Trafficking and the National Agency to Combat Human Trafficking represents a significant step forward in the protection of children from sale, prostitution and pornography.

244. Despite all the progress made by the Niger with respect to the Optional Protocol, much remains to be done, especially as regards international adoption. Indeed, there are still challenges with regard to relevant bilateral and multilateral agreements and to measures relating to adoption. The Niger has not yet ratified the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

245. Nevertheless, the current intensification of activities to combat trafficking in persons is conducive to the ratification of the Hague Convention.

246. Ultimately, the Niger remains determined to promote children's rights and provide greater protection against all forms of abuse, including the sale of children, child prostitution and child pornography.

---