



# COUNTRY REPORT

## IMMIGRATION DETENTION IN NIGER: EXPANDING THE EU-FINANCED ZONE OF SUFFERING THROUGH "PENAL HUMANITARIANISM"

*MARCH 2019*

 GLOBAL DETENTION PROJECT



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# THE GLOBAL DETENTION PROJECT MISSION

The Global Detention Project (GDP) is a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status. Our mission is:

- To promote the human rights of detained migrants, refugees, and asylum seekers;
- To ensure transparency in the treatment of immigration detainees;
- To reinforce advocacy aimed at reforming detention systems;
- To nurture policy-relevant scholarship on the causes and consequences of migration control policies.

## **Global Detention Project**

3 rue de Varembe

1202 Geneva

Switzerland

**Email:** [admin@globaldetentionproject.org](mailto:admin@globaldetentionproject.org)

**Website:** [www.globaldetentionproject.org](http://www.globaldetentionproject.org)

**Front cover image:** Women and children who were being held in Libya's Triq Al Sika detention centre (Tripoli) wait to board a UNHCR evacuation flight to Niger, 19 June 2018. © UNHCR/Jehad Nga

This report is also available online at [www.globaldetentionproject.org](http://www.globaldetentionproject.org)

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## GLOSSARY

<b>CMW</b>	Committee on the Protection of the Rights of All Migrant Workers and Members of their Families
<b>CNDH</b>	National Commission for Human Rights ( <i>La Commission Nationale des Droits de l'Homme et des Libertés Fondamentales</i> )
<b>EC</b>	European Commission
<b>ECOWAS</b>	Economic Community of West African States
<b>ETM</b>	Emergency Transit Mechanism
<b>EU</b>	European Union
<b>GDP</b>	Global Detention Project
<b>IOM</b>	International Organisation for Migration
<b>UPR</b>	Universal Periodic Review
<b>VAR</b>	Voluntary Assisted Return



## KEY FINDINGS

- Niger has become an important European Union (EU) partner in “migration management” projects, receiving hundreds of millions of euros in recent years for the express purpose of halting migration.
- The country is also a major hub for international migration and humanitarian aid programmes, including initiatives overseen by the International Organisation for Migration and the UN High Commissioner for Refugees that entail operating facilities that accommodate people who are in transit through the country.
- Niger’s controversial 2015 anti-smuggling legislation, passed following intensified financial and logistical support from the EU, provides for the detention of people who may be victims of trafficking and criminalises smuggling and other migration activities.
- The pressure on Niger to stem migration has likely led to an increase in the numbers of people arrested or detained for migration-related reasons. However, there is little or no information available detailing the situation of people in immigration detention.
- Numerous international human rights bodies and advocacy groups have highlighted the urgent need for Niger and its migration partners to provide systematic documentation that details the situation of migrants, asylum seekers, and other vulnerable foreigners who are detained or otherwise accommodated in the country as part of its migration control efforts and international management schemes.
- A recent report by a consortium of European development organisations raises concerns that the enormous amount of EU Trust Fund money flowing into Niger may have long-term detrimental consequences both for migrants and for Niger itself because of its focus on security and migration rather than on development and poverty eradication.
- Algeria’s pushbacks across its southern border into Niger have jeopardised thousands of people—including in particular Sudanese refugees—who are exposed to harsh desert conditions and abuses from corrupt officials and criminal gangs.
- After his 2018 visit to Niger, the UN Special Rapporteur on the Human Rights of Migrants lauded the country for its “openness, generosity, and solidarity in receiving migrant persons in vulnerable situations.” Nevertheless, he also expressed concern over the human rights abuses migrants have suffered in the country, which have included forced deportations back into Libya.
- The Special Rapporteur underscored the responsibility of the international community in preventing abuses of migrants in Niger, as well as in “addressing the root causes of migration and providing regular and safe pathways for migration.”



## 1. INTRODUCTION

Mondays used to be busy days for the *passeurs* of Agadez as it was the day they often launched their journeys taking clients north across the desert, sometimes with military escorts.<sup>1</sup> At the height of the land crossing from Niger to Libya in the mid-2010s, tens of thousands of refugees, asylum seekers, and migrants traversed these desert routes each month, part of an entrenched economy that supported a wide range of actors, including security agents, smugglers, transport companies, shop owners, and—importantly—migrants.<sup>2</sup>

Much of the recent attention on Niger has been on its role in the Central Mediterranean migration route to Europe and its increasing importance to the European Union (EU) and international organisations as a staging ground for migration and asylum schemes. However, the country has been the site of migration flows for generations because of its long porous borders, geographical location, tribal make-up, and close migratory ties to countries across the Sahel region.

Niger is one of 15 member states of the Economic Community of West African States (ECOWAS), which provides visa-free travel for nationals of those countries.<sup>3</sup> The principle of freedom of movement within the community effectively means that all nationals from ECOWAS member states are supposed to be able to legally travel as far as the Libyan border. With many West Africans transiting through Niger en route to North Africa and Europe, Niger's desert town of Agadez has long served as a key transit point. In 2015, the United Nations (UN) reported that up to 4,000 people without travel papers were passing through the town each week.<sup>4</sup>

Niger's strategic place on the map has made it a central focus of EU migration "management" strategies in Central and North Africa, helping turn the country into the "the southern border of Europe," as Caritas quips.<sup>5</sup> By 2017, "EU engagement in Niger has

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<sup>1</sup> G. Zandonini, "The Monday that Changed Migration in Niger," *Open Migration*, 15 January 2018, <https://openmigration.org/en/analyses/the-monday-that-changed-migration-in-niger/>

<sup>2</sup> T. Westcott and P. Tinto, "The Niger-Libya Corridor: Smugglers' Perspectives: Could Economic Incentives Help Curb Irregular Migration to Europe?" *Institute for Security Studies*, December 2016, <https://issafrica.org/research/papers/the-niger-libya-corridor-smugglers-perspectives>

<sup>3</sup> ECOWAS member states: Benin, Côte d'Ivoire, Cape Verde, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, Togo, and Burkina Faso.

<sup>4</sup> A. Massalaki, "Niger Passes Law to Tackle Migrant Smuggling, First in West Africa," *Reuters*, 12 May 2015, <https://www.reuters.com/article/us-europe-migrants-niger/niger-passes-law-to-tackle-migrant-smuggling-first-in-west-africa-idUSKBN0NX1M020150512>

<sup>5</sup> Caritas International, "Aujourd'Hui, Le Niger est Devenu la Frontière Sud de L'Europe," 25 October 2018, <https://www.caritasinternational.be/fr/urgence-et-developpement/aujourd'hui-le-niger-est-devenu-la-frontiere-sud-de-leurope/>



included a [pilot project](#) to convince migrants to stop their journeys, encouraging Niger to pass a [law](#) against migrant smuggling, a range of capacity-building [projects](#) for law enforcement authorities and the judiciary, and increased [cooperation](#) in ‘the fight against smugglers.’<sup>6</sup> As a result, the *passeurs* have become outlawed “smugglers,”<sup>7</sup> the delicate political-economies buttressing Niger—locally, regionally, and internationally—have become increasingly destabilised<sup>8</sup>, and migrants and asylum seekers have become increasingly vulnerable to abuses.<sup>9</sup>

Much of the EU’s support is packaged as “development” or “humanitarian” assistance, even as large amounts of the funds are earmarked for programmes that criminalise migration activities,<sup>10</sup> a phenomenon that scholars term “[penal humanitarianism](#).”<sup>11</sup> Writes one researcher, “The rationale behind the EU’s fight against ‘migrant smugglers’ in Niger is framed as a humanitarian obligation: stopping migrants from travelling through Niger equals saving them from dying in the hands of evil people smugglers or in Libyan detention camps.”<sup>12</sup>

Under intense EU pressure to reduce northbound flows, Niger introduced controversial anti-smuggling legislation in 2015 which, although ostensibly aimed at smugglers, impacts a broad array of activities and severely jeopardises migrants and asylum seekers. According to the UN Special Rapporteur for the Human Rights of Migrants, although supporters of the law claim that it has “contributed to save lives of migrant persons engaged in perilous journeys through the Sahara Desert,” in reality its implementation “has resulted in the criminalisation of all migration [north of Agadez] and has pushed migrants into hiding, which renders them more vulnerable to abuse and human rights violations.”<sup>13</sup>

Also in 2015, the EU launched the [Emergency Trust Fund for Africa](#) with the aim of improving “stability and addressing root causes of irregular migration and displaced persons in Africa across three regions of Africa—the Sahel and Lake Chad, the Horn of Africa and

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<sup>6</sup> P. Tinti, “The E.U.’s Hollow Success Over Migrant Smuggling in Niger,” *Refugees Deeply*, 17 January 2017, <https://www.newsdeeply.com/refugees/community/2017/01/17/the-e-u-s-hollow-success-over-migrant-smuggling-in-niger>

<sup>7</sup> D. Howden and G. Zandonini, “Niger, Inside The “Model” For Preventing Migration Into Europe,” *News Deeply*, 9 July 2018, <https://www.worldcrunch.com/migrant-lives-1/niger-inside-the-model-for-preventing-migration-into-europe>

<sup>8</sup> T. Westcott and P. Tinto, “The Niger-Libya Corridor: Smugglers’ Perspectives: Could Economic Incentives Help Curb Irregular Migration to Europe?” *Institute for Security Studies*, December 2016, <https://issafrica.org/research/papers/the-niger-libya-corridor-smugglers-perspectives>

<sup>9</sup> The UN Office of the High Commissioner for Human Rights, “End of Mission Statement of the UN Special Rapporteur on the Human Rights of Migrants, Felipe González Morales, on his Visit to Niger (1-8 October 2018),” 8 October 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23698&LangID=E>

<sup>10</sup> O. De Guerry, A. Stocchiero, CONCORD EUFT Task Force, “Partnership or Conditionality? Monitoring the Migration Compacts and EU Trust Fund for Africa,” *Coordinamento Italiano NGO Internazionali (CINI) and European NGO confederation for relief and development (CONCORD)*, 2018.

<sup>11</sup> M. Bosworth, “Penal Humanitarianism and Sovereign Power,” *Border Criminologies*, 6 March 2019, <https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2019/03/penal>

<sup>12</sup> E. Magdalena Stambøl, “Penal Humanitarianism and Sovereign Power,” *Border Criminologies*, 6 March 2019, <https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2019/03/penal>

<sup>13</sup> The UN Office of the High Commissioner for Human Rights, “End of Mission Statement of the UN Special Rapporteur on the Human Rights of Migrants, Felipe González Morales, on his Visit to Niger (1-8 October 2018),” 8 October 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23698&LangID=E>



North Africa.”<sup>14</sup> Niger has been one of the largest recipients of aid, although much of it has been focused on migration control. By 2016, the country had become the focus of EU-financed migration-related projects whose combined value was nearly 200 million EUR.<sup>15</sup> These included 6 million EUR for the establishment of a joint investigation team to combat irregular migration, human trafficking, and people smuggling; and 30 million EUR to support Niger in its fight against organised crime, smuggling, and human trafficking.<sup>16</sup>

The narrow focus of these EU funds on migration and security has spurred a growing chorus of criticisms. For instance, a 2018 report published by the European NGO Confederation for Relief and Development (CONCORD) highlighted the long-term negative consequences of the Trust Fund’s failure to emphasise poverty alleviation and development.<sup>17</sup> The UN Special Rapporteur, commenting on the Trust Fund after his October 2018 visit to Niger, pointed to its financing of International Organisation for Migration (IOM) “voluntary return” programmes: “The fact that the European Union Trust Fund provides financial support to IOM largely to sensitize and return migrants to their countries of origin, even when the voluntariness in many cases is questionable, compromises its rights-based approach to development cooperation.”<sup>18</sup>

For its part, the EU has claimed dramatic successes from these programmes,<sup>19</sup> pointing to somewhat misleading IOM data showing that the number of people transiting through Niger to Libya has decreased considerably since 2016.<sup>20</sup> However, as underscored by the UN Special Rapporteur, these “successes” have come with a heavy price, one that is often extracted from desperate migrants and asylum seekers. An astute observer of African migration issues has written, “Absent meaningful measures to offer alternatives to irregular migration, increased border patrol and law enforcement [in Niger] do little more than force migrants to pay greater sums and take greater risks, while also increasing the profit margins of the smugglers.”<sup>21</sup>

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<sup>14</sup> The EU Emergency Trust Fund for Africa, [https://ec.europa.eu/europeaid/regions/africa/eu-emergency-trust-fund-africa\\_en](https://ec.europa.eu/europeaid/regions/africa/eu-emergency-trust-fund-africa_en)

<sup>15</sup> European Commission (EC), “EU Cooperation with Niger: European Commission—Fact Sheet,” 13 December 2017, [https://reliefweb.int/sites/reliefweb.int/files/resources/MEMO-17-5234\\_EN.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/MEMO-17-5234_EN.pdf)

<sup>16</sup> European Commission (EC), “EU Cooperation with Niger: European Commission—Fact Sheet,” 13 December 2017, [https://reliefweb.int/sites/reliefweb.int/files/resources/MEMO-17-5234\\_EN.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/MEMO-17-5234_EN.pdf)

<sup>17</sup> O. De Guerry, A. Stocchiero, CONCORD EUFT Task Force, “Partnership or Conditionality? Monitoring the Migration Compacts and EU Trust Fund for Africa,” *Coordinamento Italiano NGO Internazionali (CINI) and European NGO Confederation for Relief and Development (CONCORD)*, 2018.

<sup>18</sup> The UN Office of the High Commissioner for Human Rights, “End of Mission Statement of the UN Special Rapporteur on the Human Rights of Migrants, Felipe González Morales, on his Visit to Niger (1-8 October 2018),” 8 October 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23698&LangID=E>

<sup>19</sup> EU Observer, “EU Hails First Result in Africa Migration Deals,” 18 October 2016, <https://euobserver.com/migration/135551>

<sup>20</sup> The UN Special Rapporteur on the Human Rights of Migrants noted after his trip to Niger in 2018, “While IOM data suggests that onward movement to North Africa may have slowed down, it does not reflect the number of people who still move on shifting routes as a consequence of tighter controls that lead migrants to move around data collection points.” See: UN Office of the High Commissioner for Human Rights, “End of Mission Statement of the UN Special Rapporteur on the Human Rights of Migrants, Felipe González Morales, on his Visit to Niger (1-8 October 2018),” 8 October 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23698&LangID=E>

<sup>21</sup> P. Tinti, “The E.U.’s Hollow Success Over Migrant Smuggling in Niger,” *Refugees Deeply*, 17 January 2017, <https://www.newsdeeply.com/refugees/community/2017/01/17/the-e-u-s-hollow-success-over-migrant-smuggling-in-niger>

Also importantly, despite increasing EU involvement in migration processes in Niger, detailed information related to the treatment of migrants and asylum seekers in the country—including about the conditions of detention—remains very difficult to find. Aside from scattered press and NGO reports identifying police stations that are used to hold arrested migrants and asylum seekers,<sup>22</sup> little effort appears to have been made to systematically track what happens to apprehended migrants in the country.

This gap in knowledge, which is all the more striking given the range of international actors active in the country for migration-related purposes, has been highlighted by human rights bodies. The UN Committee on Migrant Workers (CMW), for instance, has expressed concern regarding the lack of data on “migration flows into, out of and through” Niger, as well as on migrant workers and members of their families in an irregular situation; migrant workers in detention; and unaccompanied and separated children. While the CMW noted the existence of “special holding centres for migrant workers based in Agadez, Arlit, Dirkou, and Niamey,” it also commented on the “lack of information on the conditions in these facilities,” as well as the “lack of statistics on persons placed in holding centres or detention facilities due to their irregular migration status.”<sup>23</sup>

The IOM publishes regular “flow monitoring” reports that collect migration observation data from various locations in Niger as part of its Displacement Tracking Matrix (DTM).<sup>24</sup> However, unlike its DTM page on Libya, which provides a wealth of detention data in “Detention Centre Profiles,”<sup>25</sup> the IOM’s Niger DTM page has no information about where migrants are detained in that country.

Further complicating the situation in the country, in recent years Niger has experienced significant “reverse” flows due to emergency humanitarian programmes implemented by international agencies as well as the unscrupulous actions of its northern neighbours.

In 2017, the UN High Commissioner for Refugees launched the Emergency Transit Mechanism (ETM), a programme coordinated with international NGOs that is intended to remove vulnerable persons from detention in Libya and resettle them in third countries. Thousands have been sent to Niger under this mechanism, with many more housed in transfer facilities pending resettlement to other countries. These efforts came under intense scrutiny in 2018 due to challenges in processing and finding new destinations for people removed from Libya to Niger, in part because of the refusal by EU countries to accept these people. “In Europe we have been talking a lot about legal pathways,” said UNHCR’s representative in Niger in July 2018. “If we want to combat trafficking, if people in need of international protection, who fit the profile of asylum seekers, get out of that flow, I have to offer an alternative. Otherwise, what are we talking about here? But when I take them out I have no alternative. You see? This is our fight.”<sup>26</sup>

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<sup>22</sup> See, for instance, Amnesty International, “Niger. Plus de cent Soudanais expulsés vers la Libye sont dans une situation critique et risquent de subir de graves abus, y compris la torture,” May 2018, <https://www.amnesty.org/fr/latest/news/2018/05/niger-more-than-a-hundred-sudanese-nationals-deported-to-libya/>

<sup>23</sup> UN Committee on Migrant Workers (CMW), “Concluding Observations on the Initial Report of the Niger, CMW/C/NER/CO/1,” 11 October 2016, <https://bit.ly/2LJa6BH>

<sup>24</sup> IOM, “DTM Niger,” <https://www.globaldtm.info/niger/>

<sup>25</sup> IOM, “DTM Libya,” <http://www.globaldtm.info/Libya/>

<sup>26</sup> R. Maclean, “Will Europe’s New Border Policy Add to Pain of Africa’s Migrant Children?” *The Guardian*, 1 July 2018, <https://www.theguardian.com/world/2018/jul/01/refugees-niger-africa-eu-summit-border-policy-migrant-children>

Niger has simultaneously been subject to frequent pushbacks from Algeria and, to a lesser extent, from Libya. These pushbacks, which include both Nigerien citizens and third-country nationals, have revealed important gaps in Niger's legal framework for assisting these people and in its capacity to host them. In May 2018, the IOM's Chief of Mission in Niger said that thousands have experienced pushbacks from Algeria, either because they were "stopped by the police in Algeria while attempting to enter the country," were detected working in Algeria, or were found making their own way back from Libya via Algeria.<sup>27</sup> According to reports, as of mid-2018 as many as 13,000 people—including pregnant women and children—had been "abandoned" in the desert by Algerian authorities unwilling to allow displaced and migrant populations to enter the country.<sup>28</sup>

Ultimately, the case of Niger highlights the fraught nature of Europe's efforts to shift the burden of responding to migration and refugee needs ever further south. In Libya, the involvement of the EU and other international actors in that country's migration control practices has been complicit in creating a situation in which countless thousands of people have become trapped in nightmarish detention facilities or forced into the hands of ruthless traffickers; in Niger, EU-led efforts to make the country a hub for regional migration management schemes appears to be expanding the zone of suffering. Under pressure and with large injections of money, Niger is adopting measures that threaten the livelihood of many of its citizens, put the well-being of migrants and refugees at risk, undermine the country's relations with its neighbours, and encourage criminality and corruption.

After his October 2018 visit to the country, the UN Special Rapporteur concluded: "Niger has an obligation to protect all migrant persons in its territory, regardless of their status or nationality. Due to its limited capacity, the international community must step up its support to Niger in addressing the root causes of migration and providing regular and safe pathways for migration. This should be done instead of adopting policies that lead to human rights violations and are aimed at banning all migration to the north, turning Niger into a hub for processing forced returns, with complete disregard of international human rights law and raising questions as to the effectiveness and sustainability of these measures in the long term."<sup>29</sup>

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<sup>27</sup> G. Loprete, "What I Have Seen at the Algeria-Niger Border," *Medium*, 10 May 2018, <https://medium.com/@UNmigration/what-i-have-seen-at-the-algeria-niger-border-6d7b36f55ed3>

<sup>28</sup> L. Hinnant, "Walk or Die: Algeria Strands 13,000 Migrants in the Sahara," *Associated Press*, 26 June 2018, <https://www.apnews.com/9ca5592217aa4acd836b9ee091ebfc20>

<sup>29</sup> The UN Office of the High Commissioner for Human Rights, "End of Mission Statement of the UN Special Rapporteur on the Human Rights of Migrants, Felipe González Morales, on his Visit to Niger (1-8 October 2018)," 8 October 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23698&LangID=E>



## 2. LAWS, POLICIES, PRACTICES

**2.1 Key norms.** Niger's legal framework concerning entry, stay, and exit is provided in two pieces of legislation that were initially adopted many years before it became a target of EU-driven migration management schemes:

- *Ordonnance No. 81-40 (1981) Relative à L'Entrée et au Séjour des Étrangers au Niger* (Ordinance No. 81-40 on the Entry and Residence of Foreigners in Niger);
- *Décret n°87-076 (1987) Réglementant les Conditions D'Entrée et de Séjour des Étrangers au Niger* (Decree No. 87-076 Regulating the Conditions of Entry and Residence of Foreigners in Niger).

Notably, there do not appear to be any provisions in these laws regulating administrative forms of immigration detention.

This framework has been bolstered with other, more recent laws. In 2010, Niger passed anti-trafficking law No. 86 (*Ordonnance No. 2010-86 (1987) relative à la lutte contre la traite des personnes*) setting out penalties for traffickers and protections for victims (see “2.5 Other vulnerable groups”).

In 2015, under pressure and with assistance from the EU, Niger passed the controversial anti-smuggling law No. 36.<sup>30</sup> In line with the [Palermo Protocol](#), the 2015 law classifies migrants as victims of rights abuses, and highlights the particular needs of women, children, the disabled, and the elderly (Article 26). Article 29 provides special measures for smuggled children including the need for public authorities and institutions to consider the best interests of the child; to consider persons as minors while waiting for age determination; to interview smuggled minors in an appropriate setting in the presence of parents, a guardian, or a support person; and to ensure that smuggled children have access to education regardless of their legal status (or that of their parents) in Niger. Article 30 of the law provides for smuggled migrants deprived of liberty (*arrêté, incarcéré or en detention préventive*) to be promptly informed about their right to communicate with consular representatives.<sup>31</sup>

Following a visit to Niger in October 2018, the Special Rapporteur on the Human Rights of Migrants expressed grave concerns regarding the 2015 law: “Although the alleged objective of the law is to prevent and combat the smuggling of migrants and to protect the rights of migrants, the law allows the detention of migrants subject to illicit trafficking, without specifying the reasons for this detention, which is a serious concern.” He added that the

<sup>30</sup> *République du Niger*, “Contribution du Niger au 5ème débat thématique [Global Compact on Migration] , *Plan national de lutte contre la migration clandestine au Niger*,” September 2017, [https://refugeesmigrants.un.org/sites/default/files/niger\\_ts5.pdf](https://refugeesmigrants.un.org/sites/default/files/niger_ts5.pdf)

<sup>31</sup> “Loi No 2015-36 du 26 mai 2015 relative au trafic illicite de migrants,” <https://bit.ly/2JCpQpu>

“EU’s role and support in the adoption and implementation of the law ... calls into question its ‘do no harm’ principle given the human rights concerns related to the implementation and enforcement of the law.” He recommended that the law be amended in order to halt the criminalisation of migrants. Whether this law has resulted in an increased number of non-citizen adults and children being detained remains unclear.<sup>32</sup>

Also important to note, most foreigners transiting through Niger are from member states of the Economic Community of West African States (ECOWAS), which has a visa-free regime, and legal provisions regarding irregular entry and stay are generally not intended to apply to them.<sup>33</sup> However, as the UN Special Rapporteur noted, implementation of the 2015 anti-smuggling law “has resulted in a *de facto* ban of all travel north of Agadez, e.g. in violation of the freedom of movement of ECOWAS nationals.”<sup>34</sup>

Numerous researchers and non-governmental organisations have also raised concerns about the anti-smuggling law. In July 2018, the GDP [made a submission to the Committee on the Rights of the Child](#) urging the committee to ask Niger to respond to growing concerns about this law, including in particular the lack of detailed information about the treatment of migrant children and families impacted by the law.<sup>35</sup> Observers have also raised questions about the implementation of the law given the lack of a concerted training programme for judicial and security officials, the historical reliance of Nigerien communities and other actors (including officials) on informal economies such as people and/or goods smuggling, as well as widespread corruption within police and security agencies.<sup>36</sup>

**2.2 Grounds for detention and criminalisation.** Officially sanctioned migration-related detention in Niger is limited to criminal forms of incarceration; there appear to be no specific legal provisions for administrative immigration detention.

Niger’s Law No. 40 on the Entry and Stay of Foreigners regulates the removal of foreigners who arrive at borders without necessary documents and visas (Article 4). Under Article 5, foreigners can remain in Niger without a residence permit for up to 90 days. After this, as per Article 11, irregular stay without a residence permit (or failure to leave after an expulsion order) is criminalised and sanctioned with prison sentences and fines. Article 16 provides for the expulsion of foreigners who are a threat to public order, as well as fines.

Decree No. 87-076 of June 1987 further regulates conditions of entry and residence for foreigners in Niger (Articles 31-33).<sup>37</sup> According to Article 31, foreigners without authorisation to enter the country can be refused entry; and under Article 27, irregular stay can be penalised with fines and prison sentences.

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<sup>32</sup> The UN Office of the High Commissioner for Human Rights, “End of Mission Statement of the UN Special Rapporteur on the Human Rights of Migrants, Felipe González Morales, on his Visit to Niger (1-8 October 2018),” 8 October 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23698&LangID=E>

<sup>33</sup> COWAS/979 Protocol A/P.1/5/79 relating to Free Movement of Persons, Residence and Establishment

<sup>34</sup> The UN Office of the High Commissioner for Human Rights, “End of Mission Statement of the UN Special Rapporteur on the Human Rights of Migrants, Felipe González Morales, on his Visit to Niger (1-8 October 2018),” 8 October 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23698&LangID=E>

<sup>35</sup> Global Detention Project (GDP), “Submission to the UN Committee on the Rights of the Child: Niger,” July 2018, <https://www.globaldetentionproject.org/submission-to-the-un-committee-on-the-rights-of-the-child-niger>

<sup>36</sup> F. Molenaar, “Irregular Migration and Human Smuggling Networks in Niger,” *Clingendael: Netherlands Institute of International Relations*, February 2017, <https://bit.ly/2JGSkOV>

<sup>37</sup> “Décret n° 87-076/PCMS/MI/MAE/C du 18 juin 1987 réglementant les conditions d’entrée et de séjour des étrangers au Niger,” 1 July 1987, <https://bit.ly/2HlltHy>



**2.3 Asylum seekers.** Niger hosts large populations of refugees and other people of concern, including some 120,000 people fleeing jihadist violence and instability in Nigeria, and another 55,540 from Mali.<sup>38</sup> These refugees enjoy either *prima facie* or temporary protection in Niger, respectively.<sup>39</sup> Smaller numbers of asylum seekers—mostly Sudanese nationals—can also be found, mainly in Agadez. At the time of writing, UNHCR counted 1,647 asylum seekers in Agadez, including more than 180 unaccompanied or separated children.<sup>40</sup>

The Nigerien government's National Eligibility Commission (*Commission Nationale d'Eligibilité*) conducts refugee status determination. The body consists of representatives from several government ministries as well as the Human Rights Commission and UNHCR in an observer role, while the Ministry of Interior's Department for Civil Registry and Refugee Matters (*Direction Générale de l'Etat Civil et des Réfugiés*, DGECR) is responsible for registering and interviewing asylum seekers in Niger.<sup>41</sup>

UNHCR has an office in Agadez “with the aim of identifying persons in need of international protection amongst mixed movements,” largely those en route to Libya, although the UN agency in 2017 began receiving reports of “downward movements” from Libya to Niger (after which individuals were claiming asylum in Niger).<sup>42</sup> UNHCR also constructed a “humanitarian centre” in Agadez to “accommodate and screen those seeking protection.”<sup>43</sup>

Beginning in September 2018, the Nigerien government's Regional Directorate for Civil Status, Refugees, and Migration (DREC-RM) began examining these cases with support from UNHCR.

More recently, there has been a steady flow of “return migration” (often forced) as well as “evacuations” from North Africa. In its humanitarian plan for Niger for 2018, UNICEF explained that “multi-sectoral humanitarian interventions” would cover “new areas, including those affected by the Malian border crisis and locations registering increasing numbers of vulnerable migrant children returning from Algeria and Libya.”<sup>44</sup>

UNHCR also introduced the Emergency Transit Mechanism (ETM), an “evacuation” programme for refugees, asylum seekers, and migrants from detention in Libya, where they

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<sup>38</sup> UN High Commissioner for Refugees (UNHCR), “Niger: Country Operation Update, January 2019,” <https://data2.unhcr.org/en/documents/download/67942>; UN High Commissioner for Refugees (UNHCR), “Niger: Country Operation Update, December 2018,” <http://reporting.unhcr.org/sites/default/files/UNHCR%20Niger%20Operational%20Update%20-%20December%202018.pdf>

<sup>39</sup> UN High Commissioner for Refugees (UNHCR), “Niger Government to Speed up Asylum Procedures for Those Fleeing Conflict and Persecution,” *UNHCR Niger, Life as a Refugee in Niger*, 10 December 2018, <http://unhcnr.niger.tumblr.com/post/134913593544/niger-government-to-speed-up-asylum-procedures-for>

<sup>40</sup> UN High Commissioner for Refugees (UNHCR), “Niger: Country Operation Update, January 2019,” <https://data2.unhcr.org/en/documents/download/67942>

<sup>41</sup> UN High Commissioner for Refugees (UNHCR), “Niger Government to Speed up Asylum Procedures for Those Fleeing Conflict and Persecution,” *UNHCR Niger*, 10 December 2018, <http://unhcnr.niger.tumblr.com/post/134913593544/niger-government-to-speed-up-asylum-procedures-for>

<sup>42</sup> UN High Commissioner for Refugees (UNHCR), “First Refugees from Darfur Receive Official Refugee Status in Agadez, Niger,” 17 December 2018, <http://unhcnr.niger.tumblr.com/post/181196054124/first-refugees-from-darfur-receive-official>

<sup>43</sup> UN High Commissioner for Refugees (UNHCR), “Niger: Country Operation Update, August 2018,” August 2018, <http://reporting.unhcr.org/sites/default/files/UNHCR%20Niger%20Operational%20Update%20-%20August%202018.pdf>

<sup>44</sup> United Nations Children's Fund (UNICEF), “Humanitarian Action for Children 2018 – Niger,” <https://uni.cf/2y30la3>

are exposed to severe abuses and indefinite detention. Working with various partners, UNHCR assists the evacuation of people to Niger to await resettlement to third countries.

Since December 2017, the Italian NGO *Cooperazione Internazionale* (COOPI) has been working with UNHCR to “provide refugees from Libya with shelter and protection” as part of the ETM. COOPI houses refugees and asylum seekers evacuated by air from Libya in numerous “transit centres” in Niamey and Agadez before they are resettled.<sup>45</sup>

According to recent data, since the start of the evacuation in late 2017, a total of 3,016 persons were evacuated from Libya—2,332 to Niger, 415 to [Italy](#) and 269 to [Romania](#)—while 1,133 persons are awaiting resettlement in Niger.<sup>46</sup> As of February 2019, there were 157 unaccompanied children among the evacuees in Niger.<sup>47</sup>

People evacuated to Niger include individuals processed in Libya for resettlement from Niger as well as people whose cases are to be processed in Niger before interviews for resettlement to third countries can take place. The pace of resettlement to countries in the Global North is very slow and in March 2018, UNHCR had to temporarily suspend evacuations of African refugees due to a backlog of cases. In May 2018, evacuations were resumed and in mid-May, UNHCR reported that the total remaining capacity for accommodating evacuees in ETMs was 162. It thus called for more support to continue life-saving evacuations of persons trafficked into Libya. Aside from evacuees, Niger hosts 166,232 refugees.<sup>48</sup>

**2.4 Children.** Nigerien immigration law does not distinguish between adults and children who are apprehend for immigration reasons. Reports indicate that children are kept in the same facilities as adults,<sup>49</sup> including in holding centres and humanitarian aid facilities used by UNHCR and other agencies.

In mid-2018, campaigners drew attention to 260 children “stuck in limbo” in Niger after they were transferred from Libya to Niger awaiting resettlement.<sup>50</sup> UNHCR reported at the time on the presence of hundreds of minors awaiting resettlement under the ETM. “Many of them are unaccompanied children (approximately 260),” UNHCR reported, “and women and girls at risk.”<sup>51</sup> In December that year, UNHCR again reported on the presence of 260

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<sup>45</sup> *Cooperazione Internazionale* (COOPI), “Niger, Sheltering Libyan Refugees,” 9 May 2018, <https://bit.ly/2sQMLHj>

<sup>46</sup> United Nations High Commissioner for Refugees (UNHCR), “Libya-Niger Situation: Resettlement Update #48,” 11 February 2019, <https://data2.unhcr.org/en/documents/download/67926>

<sup>47</sup> United Nations High Commissioner for Refugees (UNHCR), “Libya-Niger Situation: Resettlement Update #48,” 11 February 2019, <https://data2.unhcr.org/en/documents/download/67926>

<sup>48</sup> United Nations High Commissioner for Refugees (UNHCR), “Libya – Niger Situation: Resettlement update #9,” 13 May 2018, <https://bit.ly/2l6LL2i>

<sup>49</sup> See, for instance, Amnesty International, “*Niger. Plus de cent Soudanais expulsés vers la Libye sont dans une situation critique et risquent de subir de graves abus, y compris la torture*,” May 2018, <https://www.amnesty.org/fr/latest/news/2018/05/niger-more-than-a-hundred-sudanese-nationals-deported-to-libya/>

<sup>50</sup> R. Maclean, “Will Europe’s New Border Policy Add to Pain of Africa’s Migrant Children?” *The Guardian*, 1 July 2018, <https://www.theguardian.com/world/2018/jul/01/refugees-niger-africa-eu-summit-border-policy-migrant-children>

<sup>51</sup> United Nations High Commissioner for Refugees (UNHCR), “Niger: Country Operation Update, June 2018,” 30 June 2018, <https://reliefweb.int/sites/reliefweb.int/files/resources/64724.pdf>



unaccompanied children in Niger,<sup>52</sup> however the GDP could not independently verify if this was the same group of unaccompanied minors previously reported in June and July 2018.

The IOM reportedly uses “open” transfer centres in its Voluntary Assisted Return (VAR) programming in Niger. One centre in the Nigerien capital, Niamey, specifically accommodates unaccompanied minors and vulnerable women (including victims of trafficking). The organisation reported that it assisted 9,100 migrants in 2017 in these transit centres and in sub-offices in Diffa and Zinder. Most migrants in its transit centres were from West and Central Africa, and nine percent were minors (43 percent of whom were unaccompanied).<sup>53</sup>

Commenting on children’s experience in the VAR programme, the UN Special Rapporteur wrote: “During my visit I had the opportunity to talk to numerous men, women and children in IOM transit centres in Agadez and Niamey who have signed up for the AVR program. ... [W]hen AVR is the only option available to those who have been expelled or forced to return, and no other real alternative is provided for those who do not want to sign up for it, including those who are in vulnerable situations and have been victims of multiple human rights violations, questions arise as to the genuine voluntary nature of such returns if one considers the whole journey they have gone through. In the case of the non-Nigerien unaccompanied migrant children who are expelled from Algeria or forced to return from other neighbouring countries (Libya), they are referred to IOM, and once they signed up for the AVR program, they receive basic assistance to ensure their return to their countries of origin, so the best interest of the child determination assessment is conducted with return as the ultimate goal.”<sup>54</sup>

**2.5 Other vulnerable groups.** Trafficking is a significant social problem in Niger, impacting men, women, and children from neighbouring countries and West and Central Africa more generally. According to the U.S. State Department, the Nigerien government “does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so.”<sup>55</sup> In 2010, Niger passed anti-trafficking law No. 86 (see 2.1 Key norms).

In 2010, Niger passed anti-trafficking law No. 86 setting-out prison sentences and fines for those found guilty of human trafficking. Article 50 extends protection and assistance to citizen and non-citizen victims of trafficking including medical, psychological, and legal assistance as well as shelter (Article 53). Foreign victims of trafficking in an irregular situation can be granted temporary residence permits during the penal process and even a permanent residence status (Article 62). In instances in which trafficked individuals are returned to their home countries, Article 63 provides that Niger must guarantee their security.

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<sup>52</sup> United Nations High Commissioner for Refugees (UNHCR), “UNHCR Resettlement Update #39 - Libya-Niger Situation,” 10 December 2018, <https://reliefweb.int/sites/reliefweb.int/files/resources/67211.pdf>

<sup>53</sup> International Organisation for Migration (IOM), “Rapport de profilage des migrants 2017,” *IOM Niger*, 6 June 2018, <https://bit.ly/2HJcJRt>

<sup>54</sup> The UN Office of the High Commissioner for Human Rights, “End of Mission Statement of the UN Special Rapporteur on the Human Rights of Migrants, Felipe González Morales, on his Visit to Niger (1-8 October 2018),” 8 October 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23698&LangID=E>

<sup>55</sup> US Department of State, “2018 Trafficking in Persons Report,” June 2018, <https://www.state.gov/documents/organization/282798.pdf>

Trafficking in Niger impacts both Nigerien nationals as well as foreigners. Forced labour can sometimes comprise slavery and, despite efforts by the Nigerien government to tackle the practice including a 2003 law banning slavery for the first time, likely hundreds of thousands could still be kept in slavery across the country.<sup>56</sup>

**2.6 Length of detention.** There are no specific legal regulations concerning administrative forms of immigration detention, thus no time limit is established in the law for this measure. There is also very little detailed information available about how long migrants are generally kept in detention outside criminal sanctions. According to the UN Special Rapporteur, migrants told him that detention “lasted often up to several days.”<sup>57</sup>

The length to time people can be sentenced to prison for immigration violations is established in Article 11 of Niger’s Law No. 40 on the Entry and Stay of Foreigners. It stipulates that that irregular stay without a residence permit for more than 90 days can be sanctioned with prison sentences for between two months and two years.

According to Article 31 of Decree No. 87-076 of June 1987, which further regulates conditions of entry and residence for foreigners in Niger (Articles 31-33), irregular stay can be sanctioned with up to 15 days in prison.<sup>58</sup>

**2.7 Procedural guarantees.** Because Nigerien law does not explicitly provide for administrative migration-related detention, there are no provisions concerning the guarantees afforded detained migrants. After his 2018 visit to Niger, the UN Special Rapporteur noted in particular the lack of access to legal assistance for detained migrants: “During my visit to Agadez and Niamey, most migrants, amongst them minors, stated having been victims of arbitrary arrests and/or corruption by the official authorities. While being in detention, which lasted often up to several days, none of them, including children, received access to legal aid and/or legal representation. Although I was told that the Agence Nationale d’Assistance Juridique et Judiciaire (L’ANAJJ) is in charge of providing free legal assistance to vulnerable groups, I was also informed that the capacities and the funds are insufficient to provide effective legal assistance. In addition, both amongst migrants as well as among state officials there is a limited understanding of migrants’ rights and insufficient means to conduct human rights monitoring activities.”<sup>59</sup>

**2.8 Domestic monitoring.** Following negotiations between Niger and the United Nations, a National Human Rights Commission (NHRC), which is provided for in the country’s Constitution, was formally established with the adoption of Law No. 44 of 2012.<sup>60</sup> The commission is empowered to receive complaints of violations, including of children’s rights (Articles 19, 20, and 30), to conduct investigations, and to promote the adoption of

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<sup>56</sup> IRIN News, “Survey Finds Over 870,000 are Still Slaves,” 13 May 2003, <http://www.irinnews.org/report/43737/niger-survey-finds-over-870000-are-still-slaves>; N. Conrad, “Modern Day Slavery Still Rampant in Niger,” *Deutsche Welle*, 22 August 2014, <https://www.dw.com/en/modern-day-slavery-still-rampant-in-niger/a-17871711>

<sup>57</sup> The UN Office of the High Commissioner for Human Rights, “End of Mission Statement of the UN Special Rapporteur on the Human Rights of Migrants, Felipe González Morales, on his Visit to Niger (1-8 October 2018),” 8 October 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23698&LangID=E>

<sup>58</sup> “Décret n° 87-076/PCMS/MI/MAE/C du 18 juin 1987 réglementant les conditions d’entrée et de séjour des étrangers au Niger,” 1 July 1987, <https://bit.ly/2HlltHy>

<sup>59</sup> The UN Office of the High Commissioner for Human Rights, “End of Mission Statement of the UN Special Rapporteur on the Human Rights of Migrants, Felipe González Morales, on his Visit to Niger (1-8 October 2018),” 8 October 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23698&LangID=E>

<sup>60</sup> *République du Niger*, “Journal Officiel, Spécial No. 20,” 25 October 2012, <https://bit.ly/2Jv62s6>

legislation on protection and promotion of rights. Article 19 mandates the commission to conduct regular visits—both announced and unannounced—to places of detention and to make recommendations to relevant authorities. Before Niger’s UPR in 2015-2016, the NHRC had conducted nine missions on the ground “including in detention facilities.”<sup>61</sup>

The UN Special Rapporteur noted after his 2018 visit that the NHRC lacked sufficient resources “to conduct monitoring,” and recommended that the committee “should enhance its human rights monitoring activities in Agadez region with regards to migrants.”<sup>62</sup>

**2.9 International monitoring.** Niger has received visits from relevant international human rights monitoring bodies, including the UN Special Rapporteur on the Human Rights of Migrants in 2018<sup>63</sup> and the UN Subcommittee on Prevention of Torture (SPT) in 2017.<sup>64</sup>

The SPT did not specify whether it visited facilities used for detaining migrants in Niger. However, it underscored the impact of Niger’s ratification of the [Optional Protocol to the UN Convention against Torture \(OPCAT\)](#): “The ratification of the OPCAT in November 2014 paved the way for the designation of a National Preventive Mechanism (NPM) to monitor places of detention. Niger has shown political commitment at the highest levels to prevent torture and ill treatment and now must focus on establishing an independent, efficient and well-resourced NPM.”<sup>65</sup>

The UN Special Rapporteur also did not indicate whether he visited detention centres, although he highlighted testimonies from migrants he interviewed who had been in detention, noting in particular their inability to access legal assistance while detained.<sup>66</sup>

Additionally, two UN treaty bodies—the Committee on the Rights of the Child (in 2018)<sup>67</sup> and the Committee on Migrant Workers (in 2016)<sup>68</sup>—have addressed concerns about the treatment of refugee and migrant children in Niger.

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<sup>61</sup> UN General Assembly (UNGA), “National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21, A/HRC/WG.6/24/NER/1,” *Working Group on the Universal Periodic Review 24th Session*, 9 November 2015, [https://www.upr-info.org/sites/default/files/document/niger/session\\_24\\_-\\_january\\_2016/a\\_hrc\\_wg\\_6\\_24\\_ner\\_1\\_e.pdf](https://www.upr-info.org/sites/default/files/document/niger/session_24_-_january_2016/a_hrc_wg_6_24_ner_1_e.pdf)

<sup>62</sup> The UN Office of the High Commissioner for Human Rights, “End of Mission Statement of the UN Special Rapporteur on the Human Rights of Migrants, Felipe González Morales, on his Visit to Niger (1-8 October 2018),” 8 October 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23698&LangID=E>

<sup>63</sup> The UN Office of the High Commissioner for Human Rights, “End of Mission Statement of the UN Special Rapporteur on the Human Rights of Migrants, Felipe González Morales, on his Visit to Niger (1-8 October 2018),” 8 October 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23698&LangID=E>

<sup>64</sup> Office of the United Nations High Commissioner for Human Rights (OHCHR), “Torture Prevention in Niger: Visible Progress but Challenges Remain – UN Experts,” 6 February 2017, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21148&LangID=E>

<sup>65</sup> Office of the United Nations High Commissioner for Human Rights (OHCHR), “Torture Prevention in Niger: Visible Progress but Challenges Remain – UN Experts,” 6 February 2017, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21148&LangID=E>

<sup>66</sup> The UN Office of the High Commissioner for Human Rights, “End of Mission Statement of the UN Special Rapporteur on the Human Rights of Migrants, Felipe González Morales, on his Visit to Niger (1-8 October 2018),” 8 October 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23698&LangID=E>

<sup>67</sup> UN Committee on the Rights of the Child, “Committee on the Rights of the Child Examines Reports of Niger,” 25 September 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23628&LangID=E>

<sup>68</sup> UN Committee on Migrant Workers (CMW), “Concluding Observations on the Initial Report of the Niger, CMW/C/NER/CO/1,” 11 October 2016, <https://bit.ly/2LJa6BH>

The GDP highlighted the need for improved documentation and transparency in its 2018 submission to the Committee on the Rights of the Child in advance of its review of Niger, and urged the committee to press Niger on several key concerns related to the location of detention facilities, conditions of detention, and the numbers of individuals detained.<sup>69</sup>

**2.10 Externalisation, readmission, and third-country agreements.** In the wake of the March 2016 EU-Turkey Deal, in which the EU paid Turkey billions of euros in return for the effective closure of the Aegean Route between Turkey and Greece, the Central Mediterranean Route between North Africa and Italy became the most actively used irregular route into Europe. Since 2016, the EU has subsequently sought to engage states throughout North Africa with a view to limiting migration flows. This has included controversial migration management partnerships with both Libyan state and non-state actors, the repressive dictatorship of President Abdel Fattah al-Sisi in Egypt, and even Omar al-Bashir’s regime in Sudan.<sup>70</sup>

EU-Nigerien cooperation has existed for several years, but has gained increasing importance the more Europe’s attention has turned to Libya, and the Central Mediterranean more broadly. Since then, Niger has become a quasi-testing space for migration “management” schemes.<sup>71</sup> It has been a partner in various high-level EU initiatives, including the November 2015 Valetta Summit in Malta, and the June 2016 European Commission (EC) Partnership Framework. Commenting on the partnership initiative, Oxfam said that it appeared “set to drop Europe’s commitment to a foreign policy that defends universal values—especially human rights—in favour of a short-sighted scheme aimed at convincing and coercing third countries to stop migration.”<sup>72</sup> Rights groups have also expressed concerns that the framework established a precedent whereby development aid would be used as a bargaining tool by the EU in its attempts to externalise migration controls across the Mediterranean and far into the African Continent, not least in crucial sub-Saharan transit countries including Niger.<sup>73</sup> (For more information on the EU’s role in Niger, see “2.12 External sources of funding and assistance.”)

Niger is of one more than a dozen priority countries in the EC’s Partnership Framework, which is intended to facilitate the EC’s efforts to tailor agreements with each country in order to establish modes of partnership. An EC document assessing progress made under Niger’s Partnership Framework compact between June and December 2016 lauded the country’s reduction of irregular flows transiting through the country; the “application of stricter measures” to control irregular migrants going to Libya or Algeria; “effective action against smuggling” in Agadez; and the return of “several hundreds of migrants” to Agadez (presumably from border regions).<sup>74</sup>

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<sup>69</sup> Global Detention Project (GDP), “Submission to the UN Committee on the Rights of the Child: Niger,” June 2018, <https://www.globaldetentionproject.org/submission-to-the-un-committee-on-the-rights-of-the-child-niger>

<sup>70</sup> For more information on EU externalisation agreements with these states, see the GDP’s country profiles for Libya and Egypt.

<sup>71</sup> D. Howden and G. Zandonini, “Niger: Europe’s Migration Laboratory,” *Refugees Deeply*, 22 May 2018, <https://www.newsdeeply.com/refugees/articles/2018/05/22/niger-europes-migration-laboratory>

<sup>72</sup> Oxfam International, “New Migration Control Plans Will Lead to the EU Abandoning Commitment to Human Rights,” 28 June 2016, <https://www.oxfam.org/en/pressroom/reactions/new-migration-control-plans-will-lead-eu-abandoning-commitment-human-rights>

<sup>73</sup> T. Rollins, “Analysis: Fears that Development may be Bargaining Tool after EU Migration Summit,” *Middle East Eye*, 14 November 2015, <https://www.middleeasteye.net/news/analysis-fears-development-may-be-bargaining-tool-after-eu-migration-summit>

<sup>74</sup> European External Action Service (EEAS), “Niger: Action and Progress under the Migration Partnership Framework, June-December 2016.”

Agreements with EU members are often shrouded in secrecy. In early February 2019, in response to a freedom of information request from three NGOs, the Italian government was ordered to release the text of a bilateral agreement and letters between Italy and Niger.<sup>75</sup> After initially refusing to publish the text, the government eventually relented the agreement. The agreement refers to a cooperation agreement in the “field of defence.” But in December 2018, while introducing the draft agreement to Parliament, the Italian government stated that the agreement's aim included “consolidating their respective defensive capabilities and improving mutual understanding on issues of security (fight against irregular immigration, terrorism and illegal trafficking).”<sup>76</sup> Observers commented that the exchange of letters would form the true legal basis for bilateral cooperation, but the court did not order their publication, leaving both NGOs and parliament with no access to their content.<sup>77</sup>

**2.11 External sources of funding or assistance.** In October 2018, Germany and the Netherlands—via the EU mission EUCAP Sahel—announced that they will provide Niger with 10 million EUR to set up, train, and equip special forces to control the country’s borders, a “Mobile Border Enforcement Company.” “The Netherlands will contribute four million euros and Germany six million euros,” said Stef Block, the Netherlands’ Foreign Minister, in Niamey when signing the financing agreement. “We will work with the Nigerien government in the fight against irregular migration, drug trafficking, and weapons.”

The joint Dutch-German announcement underscored a critical aspect of the migration phenomenon in Niger today: It is the recipient of enormous amount of European funds, a large portion of which are narrowly focused on one over-arching issue: migration. The country is one of the main beneficiaries of the [EU Emergency Trust Fund for Africa \(EUTF\)](#), and as of 2016 it had been on the receiving end of nine migration-related projects amounting to some 190 million EUR.<sup>78</sup>

Funds specifically related to migration management include six million EUR for the establishment of a joint investigation team to combat irregular migration, human trafficking, and people smuggling; 80 million EUR to support Niger in its fight against organised crime, smuggling, and human trafficking as part of the AJUSEN project<sup>79</sup>; seven million EUR for the response mechanism and resources for migrants (MRRM); and 15 million EUR for the EUTF’s *Programme de renforcement de la gestion et de la gouvernance des migrations et le retour durable au Niger* (Sustainable Return from Niger – SURENI).<sup>80</sup> The Trust Fund has

<sup>75</sup> L. Labarriere, “L’ accord entre l’Italie et le Niger rendu public suite aux efforts de plusieurs ONG,” *Liberties*, 15 February 2019, <https://www.liberties.eu/fr/news/civic-access-italy-niger-agreement/16975>  
<https://www.liberties.eu/fr/news/civic-access-italy-niger-agreement/16975>

<sup>76</sup> Camera dei Deputati No. 1468, “Disegno di Legge - Ratifica ed esecuzione dell’Accordo di cooperazione in materia di difesa tra il Governo della Repubblica italiana e il Governo della Repubblica del Niger, fatto a Roma il 26 settembre 2017,” 19 December 2018, <http://documenti.camera.it/leg18/pdl/pdf/leg.18.pdl.camera.1468.18PDL0043740.pdf>

<sup>77</sup> L. Labarriere, “L’ accord entre l’Italie et le Niger rendu public suite aux efforts de plusieurs ONG,” *Liberties*, 15 February 2019, <https://www.liberties.eu/fr/news/civic-access-italy-niger-agreement/16975>  
<https://www.liberties.eu/fr/news/civic-access-italy-niger-agreement/16975>

<sup>78</sup> European Commission (EC), “EU Cooperation with Niger: European Commission—Fact Sheet,” 13 December 2017, [https://reliefweb.int/sites/reliefweb.int/files/resources/MEMO-17-5234\\_EN.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/MEMO-17-5234_EN.pdf)

<sup>79</sup> O. De Guerry, A. Stocchiero, CONCORD EUTF Task Force, “Partnership or Conditionality? Monitoring the Migration Compacts and EU Trust Fund for Africa,” *Coordinamento Italiano NGO Internazionali (CINI) and European NGO Confederation for Relief and Development (CONCORD)*, 2018.

<sup>80</sup> M. Akkerman, “Expanding the Fortress: The Policies, the Profiteers and the People Shaped by EU’s Border Externalisation Programme,” May 2018, [https://reliefweb.int/sites/reliefweb.int/files/resources/expanding\\_the\\_fortress\\_-\\_1.6\\_may\\_11.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/expanding_the_fortress_-_1.6_may_11.pdf)



allocated 91.9 million EUR to Niger to regulate migration, including 32 million EUR to facilitate better management of migration in the country.<sup>81</sup>

Niger has welcomed the money. In January 2019 Nigerien President Mahamadou Issoufou hailed the success of EU-Nigerien migration cooperation after the “number of migrants who pass through Niger [fell] dramatically,” before calling for more investment through development projects to Niger.<sup>82</sup> Issoufou has himself made a link between migration management and reduction in poverty, reflecting a concern from rights groups and others that development aid may be used as a condition in migration management partnerships under the 2016 Partnership Framework.<sup>83</sup>

Part of the Trust Fund assistance has also been directed to the IOM. The organisation previously operated a centre in Agadez designed to raise awareness among migrant populations transiting through the northern Nigerien town. According to the IOM, newer transit centres in Niger are “supported by the Migrant Resource and Response Mechanism funded by the EU Emergency Trust Fund for Africa [*Fonds fiduciaire pour l’Afrique*], through the EU-IOM Joint Initiative for Migrant Protection and Reintegration, and co-financed by the German Cooperation, the Governments of the Netherlands, France, Switzerland, DFID and DANIDA.”

According to a 2018 report published by the European NGO Confederation for Relief and Development (CONCORD), money flowing into Niger via the EUFT may have detrimental consequences both for migrants and for the country itself due to the focus on security and migration rather than on development and poverty eradication. The emphasis on establishing more stringent border control practices leads migrants to undertake more dangerous routes to accomplish their migration journeys.<sup>84</sup>

The way EUFT programmes are designed, and their emphasis on countering migration flows, is also detrimental to Niger itself, according to the report. Migration has long benefitted the economy of Niger and, as such, it was perceived positively. Many people used to find employment by providing services to migrants in transit. Today, many such services have been outlawed with no sustainable alternatives to replace them. Niger has also to deal with the discontent of fellow ECOWAS members, stemming from the returns and pushbacks of their nationals who should enjoy freedom of movement.<sup>85</sup>

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<sup>81</sup> European Commission (EC), “*Fonds fiduciaire pour l’Afrique – Actions au Niger*,” <https://bit.ly/2Jyr88l>

<sup>82</sup> *Jeune Afrique*, “*Le Niger et l’Italie saluent la chute du flux de migrants africains vers l’Europe*,” 16 January 2019, <https://www.jeuneafrique.com/706613/societe/le-niger-et-litalie-saluent-la-chute-du-flux-de-migrants-africains-vers-leurope/>

<sup>83</sup> T. Rollins, “Analysis: Fears that Development may be Bargaining Tool after EU Migration Summit,” *Middle East Eye*, 14 November 2015, <https://www.middleeasteye.net/news/analysis-fears-development-may-be-bargaining-tool-after-eu-migration-summit>

<sup>84</sup> O. De Guerry, A. Stocchiero, CONCORD EUFT Task Force, “Partnership or Conditionality? Monitoring the Migration Compacts and EU Trust Fund for Africa,” *Coordinamento Italiano NGO Internazionali (CINI) and European NGO Confederation for Relief and Development (CONCORD)*, 2018.

<sup>85</sup> O. De Guerry, A. Stocchiero, CONCORD EUFT Task Force, “Partnership or Conditionality? Monitoring the Migration Compacts and EU Trust Fund for Africa,” *Coordinamento Italiano NGO Internazionali (CINI) and European NGO Confederation for Relief and Development (CONCORD)*, 2018.



### 3. DETENTION INFRASTRUCTURE

**3.1 Summary.** There does not appear to be any detailed information available concerning where people are detained in Niger for immigration- or asylum-related reasons. Aside from scattered press and NGO reports identifying police stations—including the Police Commissariat in Agadez—that are used to hold arrested migrants and asylum seekers,<sup>86</sup> little effort appears to have been made to systematically track what happens to apprehended migrants in the country. Notably, while the IOM collects significant amounts of detention data on detention centres in Libya as part of its Displacement Tracking Matrix (DTM),<sup>87</sup> its Niger DTM page has no information about where migrants are detained in that country.<sup>88</sup>

In 2016, the Committee on Migrant Workers (CMW) expressed concern regarding the lack of official data on “migration flows into, out of and through” Niger, as well as on migrant workers and members of their families in an irregular situation; migrant workers in detention; and unaccompanied and separated children.

The “holding centres” referred to by the CMW in 2016 might be the open-type transfer transit centres operated by the International Organisation for Migration (IOM) in Arlit (300 places), Dirkou (150 places), Agadez (1,000 places), and three others in the capital Niamey (with 300 places in total). According to the IOM, these centres host migrants in the process of Voluntary Assisted Returns to countries of origin. One Niamey centre specifically accommodates unaccompanied minors and vulnerable women (including victims of trafficking). The IOM reports that it assisted 9,100 migrants in 2017 in these transit centres and in sub-offices in Diffa and Zinder. Most migrants in its transit centres were from West and Central Africa, and nine percent were minors (43 percent of whom were unaccompanied).<sup>89</sup>

Some reports point to the use of prisons to detain refugees, asylum seekers, and migrants apprehended north of Agadez, in line with the 2015 anti-smuggling legislation, which effectively bans any northward movement from Agadez. A group of more than 130 Sudanese refugees and asylum seekers who were detained prior to deportation back to Libya, where they had crossed into Niger from, were reportedly held in an unnamed prison.<sup>90</sup>

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<sup>86</sup> See, for instance, Amnesty International, “Niger. Plus de cent Soudanais expulsés vers la Libye sont dans une situation critique et risquent de subir de graves abus, y compris la torture,” May 2018, <https://www.amnesty.org/fr/latest/news/2018/05/niger-more-than-a-hundred-sudanese-nationals-deported-to-libya/>

<sup>87</sup> IOM, “DTM Libya,” <http://www.globaldtm.info/Libya/>

<sup>88</sup> IOM, “DTM Niger,” <https://www.globaldtm.info/niger/>

<sup>89</sup> International Organisation for Migration (IOM), “Rapport de profilage des migrants 2017,” *IOM Niger*, 6 June 2018, <https://bit.ly/2HJcJrt>

<sup>90</sup> E. Reidy, “Niger Sends Sudanese Refugees Back to Libya,” *IRIN News*, 10 May 2018, <https://www.irinnews.org/news/2018/05/10/niger-sends-sudanese-refugees-back-libya>





[www.globaldetentionproject.org](http://www.globaldetentionproject.org)