



Refugees / Migrants

Refugee Mobility, Recognition and Rights

Refugee Recognition Regime

Country Profile: Niger

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Working Paper No. 8



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About RefMig Project

The RefMig project aims to examine the global refugee regime, with a particular focus on the institutionalisation of the refugee/migrant binary globally. The project is divided into two strands: Recognising Refugees and Organisations of Protection. This report falls under the Recognising Refugees strand, which examines the institutional practices that seek to distinguish refugees from migrants. We take a purposefully broad conception of refugee recognition, encompassing not only individual refugee status determination (RSD) but also the institutional processes that determine access to RSD, as well as various forms of group determination. We examine the role of state institutions in this context (bureaucracies, legislatures, and the judiciary), as well as UNHCR’s mandate RSD practices, and its handovers to state authorities.

The project lead is Professor Cathryn Costello. During the RefMig project, she held the positions of Andrew W. Mellon Professor of International Refugee and Migration Law, Refugee Studies Centre, University of Oxford and Professor of Fundamental Rights and Co-Director of the Centre for Fundamental Rights at the Hertie School, Berlin. RefMig obtained ethics clearance from the Central University Research Ethics Committee (CUREC) of the University of Oxford (Ref No: R61177/RE001) and the European Research Council.

RefMig Working Papers are available to download at: <https://www.refmig.org/working-papers>

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Executive Summary

This report explores the refugee recognition regime in Niger. Quantitatively, Niger is the most important transit and refugee host country in West Africa. Niger is also at the forefront of debates on migration management in the region, as it is presented by International Organisations and states of the Global North as an alternative destination to the limited refugee protection in Libya and North Africa. Against the background of a relative dearth of literature on refugee recognition regimes (RRR) in (West) Africa and generally the Global South, this study draws on ethnographic field research and desk research to analyse the norms, institutions, modes of recognition, quality of recognition processes and of protection in Niger. This report's research was completed in July 2021 and except a few data points, does not include any developments thereafter.

Norms: Niger is party to the 1951 Convention Relating to the Status of Refugees, its 1967 Protocol as well as the 1969 Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa. These Conventions have been translated into the 1997 domestic refugee law and further decrees. Despite the comparatively advanced legal framework, moral and political considerations often inform its actual implementation.

Institutions: In the late 1990s, the state took over responsibility for the RRR from the UNHCR. Niger's adjudicating institutions are the first-instance National Eligibility Commission (17 members) and the second-instance Administrative Review Committee (four members). The permanent secretariat is secured by the Refugee Directorate, which is attached to the Ministry of Interior. Despite the handover, the asylum administration remains largely dependent on the financial and practical support of the UNHCR. Since 2016/2017, UNHCR's influence on the RRR has strongly increased with two EU-funded UNHCR programmes to externalise refugee protection to Niger ("Emergency Transit Mechanism", "Mixed Migration"). These programmes have also contributed to institutional changes and capacity-building and a reform of the legal and institutional framework that started in 2018.

Modes of Recognition: The Nigerien refugee law allows for *prima facie* group recognition procedures, in case of massive influx and limited institutional resources, as well as for individual refugee status determination (RSD). The overwhelming majority of protection seekers in Niger are recognised *prima facie*. This concerns citizens fleeing the generalised insecurity in Northern Nigeria and the armed conflict in Northern Mali. Other nationalities fall under individual RSD. While Niger's refugee recognition system has been centred on group recognition during its first 20 years, its role in EU externalisation policies has contributed both to an increase in asylum applications, and to dealing with them in an individualised manner. Following moral, security and political considerations, particular procedures have been developed for different categories of individual protection seekers (including profiling, security screening, a police investigation on an applicant's morality ('morality checks'), and UNHCR mandate RSD).

Quality of Recognition Processes: In regional comparison, Niger continues an open-door refugee policy despite the growing jihadist threat. Yet, issues in terms of the quality of the RRR persist. The limited independence of adjudicating institutions restrains procedural fairness. Although no formal admissibility rules exist, the admission is *de facto* often shaped by a discretionary approach. The accuracy is impacted by the lack of legal argumentation in decision letters, informal Safe Third Country practices, the lack of country-of-origin information and the introduction of moral concerns via the morality check. The limited efficiency, expressed by long delays, leads to protection risks.

Quality of Protection: Refugees *de jure* enjoy the same rights as nationals with respect to access to education, health, housing, security and enjoyment of property, freedom of residence and of movement. Only their access to work is defined as subordinate to nationals. Nevertheless, many rights are in

practice limited by implementation challenges. Asylum seekers and refugees can be subject to *refoulement*, arbitrary controls and detention by security forces. Their freedom of movement and education is regularly restricted, and they receive no documentation. Procedures for access to citizenship are long and subject to presidential discretion.

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I. Introduction

Within the last decade, Niger has turned from the smallest refugee host country in West Africa to the largest.¹ Niger hosted a mere 301 recognised refugees in 2011,² whereas the United Nations High Commissioner for Refugees (UNHCR) counted 291,861 asylum seekers and recognised refugees in June 2022.³

Situated on the migration routes between West, Central and North Africa and offering limited resources, Niger has long been rather a transit than a destination country for protection seekers. Since 2012, large numbers of refugees from neighbouring Mali and Nigeria have fled attacks by jihadist and other non-state armed groups. They have been recognised with *prima facie* and similar group recognition procedures. Since 2017, the state has also seen a growing number of individual asylum applications. While individual asylum applications amounted to a few dozen cases until 2016, they have figured above 1,000 per year since 2018.⁴ This increase is a result of two major developments. First, the civil war in Libya and intensified migration control practices in North Africa and Niger resulted in a growing number of protection seekers being forcibly displaced to or stranded in Niger. As a result, some of them applied for asylum in Niger. Second, UNHCR increased outreach, protection, assistance and resettlement in Niger through two projects with European Union (EU) funding to reinforce asylum in Niger as a part of EU externalisation policies. The ‘Mixed Migration’ program sought to incentivise protection seekers in transit to apply for asylum in Niger. The ‘Emergency Transit Mechanism’ (ETM) evacuated protection seekers with vulnerabilities from Libyan detention centres to Niger to process their asylum and resettlement claims in this transit country before their resettlement to Europe and North America. These two programs were central to raising the individual refugee status determination (RSD) caseload in Niger and in contrast to before, most of the asylum seekers came from East Africa and had higher recognition rates.

Since the handover of responsibility from UNHCR in the late 1990s (see V.2), the state has been the main actor of the refugee recognition regime (RRR). Like in many other countries in the Global South, its adjudicating institutions are two inter-ministerial eligibility committees: the National Eligibility Commission (*Commission Nationale d’Éligibilité au Statut des Réfugiés*, CNE) and the Administrative Review Committee (*Comité de Recours Gracieux*, CRG). Their permanent secretariat, the Refugee Directorate (*Direction des Réfugiés*), belongs to the Interior Ministry (*Ministère de l’Intérieur, de la Sécurité Publique, de la Décentralisation et des Affaires Coutumières et Religieuses*). Such organizational structures of eligibility committees have received little academic attention to date. The report provides a rare insight into their asylum adjudication practices.

Niger’s hosting of significant refugee numbers is situated in a context of limited state resources. Its state budget was only four billion Euros in 2021⁵ for a population of about 24 million.⁶ It is largely insufficient for the many competing state priorities, exemplified by Niger’s ranking last on the United Nations Human Development Index.⁷ Consequently, the asylum administration remains largely dependent on UNHCR in financial and practical terms. The influence of UNHCR on the RRR has increased with the EU externalisation of refugee protection to the Sahel state. These political factors have also contributed to many institutional changes and an ongoing capacity-building and reform of the legal and institutional framework.

¹ UNHCR (2021a): Refugee Data Finder. <https://www.unhcr.org/refugee-statistics/download/?url=bM0N7f> (last accessed: 25/07/2022).

² see table X.5.h.

³ UNHCR (2022a): Operational Data Portal Niger. Last update 30/06/2022. <https://data2.unhcr.org/en/country/ner> (last accessed: 25/07/2022).

⁴ See table X.5.a. Note: The number of asylum applications differs strongly depending on the statistical source.

⁵ ANP (2020): Niger: Le budget général de l’Etat pour l’exercice 2021 fixé à 2 644,54 milliards de francs CFA. 16/09/2020. <http://www.anp.ne/article/niger-le-budget-general-de-l-etat-pour-l-exercice-2021-fixe-2-644-54-milliards-de-francs> (last accessed: 25/07/2022).

⁶ UN Data (2021): Niger. <http://data.un.org/en/iso/ne.html> (last accessed: 25/07/2022).

⁷ UNDP (2020): 2019 Human Development Index Ranking. <http://hdr.undp.org/en/content/2019-human-development-index-ranking> (last accessed: 25/07/2022). Interview UNHCR staff, 2019.

Yet challenges to the quality of the recognition process and of refugee protection at large remain. Importantly, Niger so far has a *de facto* limited right to appeal with institutional overlaps between the first and second instance and a missing effective judicial review. Because appeal decisions have until 2020 not entered the national courts, there is so far no case law determining refugee recognition in Niger. Other issues concern the accessibility, efficiency and accuracy of the recognition process. At the same time, in regional comparison, Niger pursues an open-door refugee policy and has until recently been a host country of relative stability and peace. These aspects have been challenged by the rising jihadist activities on Nigerien soil in the past few years.⁸

Focusing on the period between the mid-1990s to 2021, the report provides details on the RRR in Niger with its norms, institutions and modes of recognition for both *prima facie* and individual recognition. It furthermore discusses the quality of the recognition process and of refugee protection at large. Both the quality of the recognition process and of protection are often given *de jure*, but limited in their implementation. Based on long-term ethnographic field research in Niger in 2018-2019 and update interviews in 2021, this study ethnographically explores this ‘implementation gap’⁹ between legal texts and the actual bureaucratic practices, which are often informed by security, political and moral concerns.

The report begins with a literature review (II.) and an explanation of its methodology (III.) before describing the relevant legal norms (IV.) and institutions (V.), including a short history of UNHCR-state relations and current reform initiatives. It then discusses the different modes of *prima facie* and individual refugee recognition (VI.) and the quality of the recognition process (VII.). Afterwards, it shortly summarises the quality of refugee protection (VIII.) and brings together key findings in the conclusion (IX.). The appendix (X.) collects a country map, an overview of ratifications and *prima facie* declarations, a chart of core actors in the RRR and statistics on refugee recognition and asylum applications. The remainder of this introduction gives an overview of the refugee categories discussed in this report, based on their categorisation by the asylum administration and UNHCR.

Refugee Categories in Niger

Refugees from Northern Mali have come to Niger since 2012 with the escalation of the conflict in Mali. In May 2022, there were 62,658 registered refugees recognised on a *prima facie* basis,¹⁰ who were mostly hosted in rural areas in the Western regions Tillabéry and Tahoua (see Niger map in X.1), as well as urban refugees in the capital Niamey and regional towns. Their arrival in 2012 was the first large refugee displacement to Niger since the creation of the national asylum bureaucracy in 1999-2000 (see V.2). Recent arrivals and refugees returning after voluntary repatriation to Mali have difficulties of receiving *prima facie* status, as their motives are put under scrutiny by state and UNHCR agents (see VI.1).

Shortly after the Malian arrivals, Nigerian refugees started to come to Niger in 2013. With 187,138 registered refugees in May 2022, they represent the largest refugee nationality in Niger and are made up of two different groups. First, refugees who fled North-Eastern Nigeria since 2013. In May 2022, they amounted to 130,023 registered refugees in the Eastern Nigerien region Diffa.¹¹ They stay in rural settlements along the national road R1, a refugee camp and the regional capital Diffa. A ministerial decree initially limited their status to temporary protection,¹² but a further decree from July 2020

⁸ UNHCR (2021c): Pledges Database. Global Refugee Forum. Last update 29/07/2021.

<https://drive.google.com/file/d/1uupG7ObzDtnFoBE9T7T1qCEofgK1HYG4/view> (last accessed: 25/07/2022).

⁹ Bierschenk, Thomas/Olivier de Sardan, Jean-Pierre (2014a): Ethnographies of Public Services in Africa. An Emerging Research Paradigm. In: Thomas Bierschenk/Jean-Pierre Olivier de Sardan (eds.): States at Work. Dynamics of African Bureaucracies. Boston, Brill, 35–65.

¹⁰ UNHCR (2022b): Country Operation Update. May 2022. <https://data.unhcr.org/en/documents/download/93790> (last accessed: 25/07/2022).

¹¹ UNHCR (2022b).

¹² Arrêté N°806/MI/SP/D/AR/DEC-R du 4 décembre 2013 accordant le bénéfice du statut temporaire de réfugiés à des ressortissants du nord-est du Nigéria.

extended their status to a *prima facie* status due to the ongoing character of the persecution.¹³ As a second and recent group of Nigerian refugees, people from the North-Western Nigerian states have since 2018 crossed the border and settled in Maradi region in the central South. They fled non-state armed gangs committing killings, exactions, torture, kidnappings, sexual violence and lootings.¹⁴ They have been recognised as *prima facie* refugees.¹⁵ In May 2022, UNHCR counted 57,115 refugees registered in ProGres and further recent arrivals.¹⁶ The overwhelming majority are minors (69%) and women (23%).¹⁷

As a third and very diverse group, the study focuses on the asylum seekers and refugees of different nationalities processed under individual RSD by the national eligibility bodies. Between 2000 and 2016, Niger received on average 44 asylum applications per year, ranging between 5 and 146 cases annually (see table X.5.a). Since 2017, these numbers have risen significantly. UNHCR counted 295 applications in 2017 and 5,790 applications the following year. They have since remained above 1,000 applications annually.¹⁸ Although their number is small compared to the Malian and Nigerian *prima facie* refugees, this diverse group is particularly interesting for the multiple refugee recognition procedures developed by the state and UNHCR. Many of them have been created in response to the ‘Mixed Migration’ approach that UNHCR introduced in Niger in 2015-2016. This influential approach in West Africa stipulates that refugees and migrants travel the same routes and have different protection needs, which require bureaucratic procedures to filter them.¹⁹ Accordingly, the Mixed Migration approach facilitated a capacity-building of the asylum administration to accommodate their protection and assistance needs. It also resulted in the creation of a UNHCR sub-office and reinforcement of the regional refugee authorities in the migration hub Agadez.²⁰

The largest group among individual asylum seekers and refugees arrived in Niger within the ETM. Created in November 2017 as a protection solution for the human rights violations that vulnerable protection seekers faced in Libyan detention centres,²¹ the ETM envisaged to evacuate up to 3,800 protection seekers to Niger until 2020 in order to have their asylum and resettlement procedures processed there before being resettled to the Global North.²² Many of them attempted to cross the Mediterranean to Europe via Libya, but were pulled back by the so-called Libyan Coast Guard and subsequently incarcerated.²³ By restoring the access to protection for only a minority of protection seekers in Libya, the ETM has been criticised for legitimizing EU-supported migration control measures

¹³ Arrêté N°571/MISP/D/ACR/SG/DGECM-R du 09 juillet 2020 accordant le statut de réfugié *prima facie* aux ressortissants nigériens victimes de l’insécurité généralisée dans certains Etats fédérés du nord du Nigeria.

¹⁴ UNHCR (2021e): Factsheet Maradi Niger. July 2021. https://reporting.unhcr.org/sites/default/files/Niger%20Factsheet%20Maradi-June_July-2021.pdf (last accessed: 25/07/2022). UNHCR/Niger (2019): Plan de réponse pour les réfugiés et les populations hôtes de la région de Maradi Juillet –Décembre 2019. [https://data2.unhcr.org/en/documents/details/71485_\(last accessed: 25/07/2022\).](https://data2.unhcr.org/en/documents/details/71485_(last%20accessed%3A%2025%2F07%2F2022))

¹⁵ Arrêté N°571/MISP/D/ACR/SG/DGECM-R.

¹⁶ UNHCR (2022b).

¹⁷ UNHCR (2021e).

¹⁸ See table X.5.a.

¹⁹ Fresia, Marion (2014): Forced Migration in West Africa. In: Elena Fiddian-Qasmiyeh/Gil Loescher/Katy Long et al. (eds.): The Oxford Handbook of Refugee and Forced Migration Studies. Oxford, Oxford University Press, p. 550f. Scheel, Stephan/Ratfisch, Philipp (2014): Refugee Protection Meets Migration Management: UNHCR as a Global Police of Populations. *Journal of Ethnic and Migration Studies* 40 (6), 924–941.

²⁰ Lambert (2022a): Everyday Externalization. The Transformations of Individual Asylum in Niger. PhD thesis on file with the author. Halle (Saale), Martin Luther University Halle-Wittenberg.

²¹ UNHCR (2021b): Emergency Transit Mechanism. Factsheet. May 2021. <https://reporting.unhcr.org/sites/default/files/Niger%20ETM%20Factsheet%20May%202021.pdf> (last accessed: 25/07/2022).

²² European Commission (2018): Protection and Sustainable Solutions for Migrants and Refugees along the Central Mediterranean Route. Action Document. EU Trust Fund for Africa. https://ec.europa.eu/trustfundforafrica/sites/default/files/t05-eutf-sah-reg-16_pdf.pdf (last accessed: 25/07/2022).

²³ Lambert (2022a).

in Libya.²⁴ As initially the only country accepting to host the ETM until Rwanda joined in 2019, Niger received international acclaims and support, especially by the EU. The ETM can be considered a type of extraterritorial processing with RSD procedures outsourced to Niger as a transit state. However, in contrast to other cases,²⁵ the RRR fell exclusively under Nigerien jurisdiction. Yet central RSD responsibilities were granted to the UNHCR. Until June 2018, asylum applications were adjudicated by the CNE and afterwards largely as UNHCR mandate RSD (see VI.3). In May 2022, 442 ETM evacuees remained in Niger out of a total of 3,710 people evacuated from Libya to Niger.²⁶ As of 2021, the evacuees were from 13 different, mostly East African countries. Apart from Eritrea, other countries included Somalia, Ethiopia, Sudan, South Sudan, Yemen, Egypt, DRC, Chad and some cases from Syria, Bangladesh, Nigeria and Cameroon.²⁷

The second-largest category of individual asylum seekers are Sudanese applicants who mostly fled violence, civil war and exploitation in Libya in 2017/2018. The majority is hosted in a camp close to the Northern town of Agadez – with some of them relocated to Niamey. Since their arrival, these asylum seekers and refugees have been subject to a serious securitisation as allegedly (ex-)combatants, gold diggers and economic migrants. These classifications resulted in a push-back, a long-time non-admission, the creation of a security screening and an informal Safe Third Country practice in the asylum decision-making (see VI.3 and VII.).²⁸ During their extended wait, many applicants left Niger again. In May 2021, 1,271 Sudanese asylum seekers and refugees remained in Agadez, alongside with 160 asylum seekers and refugees of other nationalities.²⁹ Some of the Sudanese and many other nationalities in Agadez have come to Niger in mass deportations organised by Algeria since 2014.³⁰ For 2020, UNHCR Niger reported that 8,039 non-Nigeriens were deported from Algeria to Niger.³¹ According to UNHCR Algeria, between September and October 2020, there were at least 80 people of concern to the UNHCR among those deported.³²

As a third bureaucratic category of individual asylum seekers, the UNHCR registered 3,612 asylum seekers in Diffa in May 2022.³³ They were mostly from Chad, Cameroon and Mali, with some also from Sudan, Gambia and South Sudan.³⁴ They have mostly been displaced by the Boko Haram insurgency, but the UNHCR also considered them as secondary movements in mixed migration flows as some had left their first countries of asylum.³⁵ The state acknowledges their presence,³⁶ but according

²⁴ Boyer, Florence/Chappart, Pascaline (2018a) : Les enjeux de la protection au Niger. Les nouvelles impasses politiques du ‘transit’? *Mouvements*. <http://mouvements.info/les-enjeux-de-la-protection-au-niger/> (last accessed: 25/07/2022).

²⁵ Tan, Nikolas Feith (2018): The Manus Island Regional Processing Centre: A Legal Taxonomy. *European Journal of Migration and Law* 20 (4), 427–451. <https://doi.org/10.1163/15718166-12340037>.

²⁶ UNHCR (2022b).

²⁷ UNHCR (2021g): ETM Overview. August 2021. <https://reliefweb.int/report/niger/unhcr-niger-factsheet-emergency-transit-mechanism-august-2021> (last accessed: 25/07/2022).

²⁸ Lambert (2022a).

²⁹ UNHCR (2021h): Mixed Movements- Niger. Factsheet. July 2021 https://reporting.unhcr.org/sites/default/files/Niger-Mixed%20Movements%20Factsheet-June_July%202021.pdf (last accessed: 25/07/2022).

³⁰ Amnesty International (2018): Forced to Leave. Stories of Injustice against Migrants in Algeria. Amnesty International. Boyer, Florence/Mounkaila, Harouna (2018): Européanisation des politiques migratoires au Sahel. Le Niger dans l’imbroglio sécuritaire. In: Emmanuel Grégoire/Jean-François Kobiané/Marie-France Lange (eds.): *L’État réhabilité en Afrique. Réinventer les politiques publiques à l’ère néolibérale*. Paris, Karthala, 267–285.

³¹ UNHCR (2020a): Mixed Movements- Niger. Factsheet. December 2020. <https://data2.unhcr.org/en/documents/details/83927> (last accessed: 25/07/2022).

³² Naceur, Sofian (2020): In die Wüste und aus dem Land. *Taz*, 23/10/2020. <https://taz.de/Massenabschiebungen-aus-Algerien/!5723213/> (last accessed: 25/07/2022).

³³ UNHCR (2022b).

³⁴ UNHCR (2021i): Statistiques enregistrement biométrique. Région de Diffa - Niger. July 2021. <https://data.unhcr.org/en/documents/download/88081> (last accessed: 25/07/2022).

³⁵ Interview UNHCR staff, 2021.

³⁶ E-mail exchange with DRECM-R staff Diffa, 2021.

to the UNHCR has so far refrained from their registration.³⁷ Therefore, they are only partially included in the report in the discussion on the accessibility of the RRR (see VII.1).

Accordingly, the report focuses on Nigerian and Malian *prima facie* refugees as well as the diverse group of individual asylum seekers and refugees. Therefore, the report sidelines the recent population movement from Burkina Faso of at least 17,839 persons of concern due to the activities of armed groups.³⁸ Their processing was still unclear at the time of writing.³⁹ Apart from them, Niger hosts a now small number of circa 100 Chadian *prima facie* refugees who arrived in 1990.⁴⁰ For reasons of legal definitions, the report also excludes the 264,257 Internally Displaced People (IDPs) and 38,956 other persons of concern (in June 2022).⁴¹

II. Literature Review

The following literature review provides a short overview of the studies on the effects of migration control measures in Niger and discusses the literature on refugees and refugee protection in the country and the resulting research gaps.

So far, research on the legal refugee protection framework and the practices of asylum decision-making and refugee protection is largely missing in West Africa generally and in Niger. While most research on asylum adjudication and bureaucracy examines states in the Global North⁴², studies on the actual bureaucratic refugee recognition practices are still widely missing in West Africa.⁴³ This is in line with the larger research need on African bureaucracies.⁴⁴ Despite the generally noted implementation gap between legal frameworks and actual practices, little research has explored the bureaucratic processing of asylum applications and the everyday in West African asylum bureaucracies.

Fresia (2014) details the history of forced displacement, the existing legal framework, and current developments and research gaps in the Economic Community of West African States (ECOWAS) member states and Mauritania. Two publications discuss the legal refugee protection framework in Africa⁴⁵ and on the sub-regional level in the ECOWAS.⁴⁶ The ECOWAS Protocols on Free Movement, Residence and Establishment represent the ‘most advanced’ framework for the free movement of

³⁷ Interview UNHCR staff, 2021.

³⁸ UNHCR (2022b).

³⁹ UNHCR (2021d): Country Operation Update. July 2021. https://reporting.unhcr.org/sites/default/files/Niger-Country%20Operation%20Update%20June_July%20%202021.pdf (last accessed: 25/07/2022).

⁴⁰ See table X.5.h.

⁴¹ UNHCR (2022a).

⁴² Fresia, Marion/von Kanel, Andreas (2016): Universalizing the Refugee Category and Struggling for Accountability. The Everyday Work of Eligibility Officers within UNHCR. In: Kristin Bergtora Sandvik/Katja Lindskov Jacobsen (eds.): UNHCR and the Struggle for Accountability. Technology, Law and Results-based Management. Berlin: Taylor and Francis, p. 101. Bianchini, Katia (2021): Legal and Anthropological Approaches to International Refugee Law. In: Marie-Claire Foblets/Mark Goodale/Maria Sapiñoli et al. (eds.): The Oxford Handbook of Law and Anthropology. Oxford: Oxford University Press, p. 796.

⁴³ Fresia (2014), p. 548-551. Lambert, Laura/Zanker, Franzisca (forthcoming): Westafrika. In: Marcel Berlinghoff/Birgit Glorius/J. Olaf Kleist et al. (eds.): Handbuch der Flucht- und Flüchtlingsforschung. Baden-Baden, Nomos.

⁴⁴ Bierschenk, Thomas/Olivier de Sardan, Jean-Pierre (2014b): Studying the Dynamics of African Bureaucracies. An Introduction to States at Work. In: Thomas Bierschenk/Jean-Pierre Olivier de Sardan (eds.): States at Work. Dynamics of African Bureaucracies. Boston, Brill, p. 4.

⁴⁵ Sharpe, Marina (2018): The Regional Law of Refugee Protection in Africa. Oxford, Oxford University Press.

⁴⁶ Ebobrah, Solomon T. (2014): Sub-regional Frameworks for the Protection of Asylum Seekers and Refugees in Africa. Bringing Relief Closer to Trouble Zones. In: Ademola Abass/Francesca Ippolito (eds.): Regional Approaches to the Protection of Asylum Seekers. An International Legal Perspective. Farnham, Surrey, England/Burlington, VT, Ashgate, 67–85.

persons in Africa.⁴⁷ Yet, as several authors assess, they remain scarcely implemented.⁴⁸ In a comparative study on West Africa, Charrière and Fresia (2008) note an often-lacking implementation of the encompassing legal and political framework for refugee protection in West Africa. The resulting protection gaps concern especially *non-refoulement*, the efficiency and fairness of asylum procedures, access to protection for secondary movements, and durable solutions for non-ECOWAS refugees.⁴⁹ Two UNHCR studies assess protection gaps from a legal perspective in individual West African countries.⁵⁰ Fresia and von Kanel (2016) examine the influence of politics on the practices of RSD under UNHCR mandate in Mauritania.⁵¹

With respect to Niger, a new academic interest in refugee and migration issues can be noted in the past years since Niger became a central partner state for EU externalisation policies in 2015. Besides overviews of EU externalisation policies in Niger,⁵² academics have studied the negotiations of and resistances to EU externalisation at the local and national level in Niger⁵³ and between cooperating states.⁵⁴ With respect to the tasked UN agencies, van Dessel (2019) highlights the large degree of discretion the International Organisation for Migration (IOM) and the UNHCR have as implementing partners for the EU.⁵⁵

Most of the literature on migration control is concerned with the effects of Niger's newly introduced anti-smuggling law⁵⁶ on the migration economy,⁵⁷ political and economic stability,⁵⁸ human rights

⁴⁷ Ebobrah (2014), p. 76f.

⁴⁸ Arhin-Sam, Kwaku/Bisong, Amanda/Jegen, Leonie/Mounkaila, Harouna/Zanker, Franzisca (2022): The (In)Formality of Mobility in the ECOWAS Region: The Paradoxes of Free Movement. *South African Journal of International Affairs*, 1–19. <https://doi.org/10.1080/10220461.2022.2084452>. Fresia (2014), p. 549.

⁴⁹ Charrière, Floriane/Fresia, Marion (2008): West Africa as a Migration and Protection Area. UNHCR; European Union, 17. <https://www.refworld.org/docid/4a277db82.html> (last accessed: 25/07/2022).

⁵⁰ McKeever, David (2005a): Identifying Gaps in Protection Capacity Burkina Faso. UNHCR. Strengthening Protection Capacity Project. McKeever, David (2005b): Identifying Gaps in Protection Capacity. Benin. UNHCR. Strengthening Protection Capacity Project.

⁵¹ Fresia/von Kanel (2016).

⁵² Boyer, Florence/Mounkaila, Harouna (2018): Européanisation des politiques migratoires au Sahel. Le Niger dans l'imbroglio sécuritaire. In: Emmanuel Grégoire/Jean-François Kobiané/Marie-France Lange (eds.): *L'État réhabilité en Afrique. Réinventer les politiques publiques à l'ère néolibérale*. Paris, Karthala, 267–285. Boyer, Florence/Chappart, Pascaline (2018b): Les frontières européennes au Niger. *Vacarme* 83 (2), 92–98. <https://doi.org/10.3917/vaca.083.0092>.

⁵³ Boyer, Florence/Tinni, Bachirou Ayouba/Mounkaila, Harouna (2020): L'externalisation des politiques migratoires au Niger. Une action publique opportuniste ? *Anthropologie & développement* 51, 105–121.

⁵⁴ Idrissa, Abdourahmane (2019): Dialogue in Divergence. The Impact of EU Migration Policy on West African Integration: the Cases of Nigeria, Mali, and Niger. Berlin, Friedrich-Ebert-Stiftung, Referat Afrika. Bisong, Amanda (2020): Migration Partnership Framework and the Externalization of European Union's (EU) Migration Policy in West Africa. The Case of Mali and Niger. In: Glenn Rayp/Ilse Ruysen/Katrin Marchand (eds.): *Regional Integration and Migration Governance in the Global South*. Cham, Springer International Publishing, 217–237.

⁵⁵ van Dessel, Julia (2019): International Delegation and Agency in the Externalization Process of EU Migration and Asylum Policy: The Role of the IOM and the UNHCR in Niger. *European Journal of Migration and Law* 21 (4), 435–458.

⁵⁶ Loi N°2015-36 du 26 mai 2015, relative au trafic illicite de migrants.

⁵⁷ Brachet, Julien (2018): Manufacturing Smugglers. From Irregular to Clandestine Mobility in the Sahara. *The ANNALS of the American Academy of Political and Social Science* 676 (1), 16–35. <https://doi.org/10.1177/0002716217744529>. Raineri, Luca (2018): Human Smuggling across Niger. State-sponsored Protection Rackets and Contradictory Security Imperatives. *The Journal of Modern African Studies* 56 (01), 63–86. <https://doi.org/10.1017/S0022278X17000520>. Tinti, Peter/Westcott, Tom (2016): The Niger-Libya Corridor. Smugglers' Perspectives. Institute for Security Studies; The Global Initiative against Transnational Organized Crime. ISS Paper 299. https://issafrica.s3.amazonaws.com/site/uploads/paper299_2.pdf. Dauchy, Alizée (2020): La loi contre le trafic illicite de migrant.es au Niger. État des lieux d'un assemblage judiciaire et sécuritaire à l'épreuve de la mobilité transnationale. *Anthropologie & développement* 51, 123–138.

⁵⁸ Molenaar, Fransje/El Kamouni-Janssen, Floor (2017): Turning the Tide. The Politics of Irregular Migration in the Sahel and Libya. Clingendael Institute. Tubiana, Jérôme/Warin, Clotilde/Saeneen, Gaffar Mohamud (2018):

violations,⁵⁹ migrant vulnerabilities,⁶⁰ migrant detention⁶¹ and the free movement of persons in the ECOWAS.⁶² Other authors highlight the extra-legality of European readmission arrangements⁶³ and the political strategies linked to constructing Niger as a ‘transit state’⁶⁴. The impact of migration control measures on refugee recognition processes, however, has so far been understudied.

Focusing on refugee policy in Niger, some authors have analysed the policy interlinkage of refugee protection with migration control and security politics in West and North Africa. Boyer and Mounkaila (2018) argue that the civil war, deportations and exploitation in Libya have forcibly displaced thousands of circular migrants to Niger since 2011. Similarly, mass deportations from Algeria to Niger have surged since 2014.⁶⁵ Boyer and Chappart (2018b) argue that refugee protection has become a means of migration control, as UNHCR’s Mixed Migration policy offered incentives like assistance, protection, and resettlement to protection seekers in transit in order to have them abandon their migratory projects. Nevertheless, the logic of migration control focusing on voluntary return and refugee protection can be conflicting and have in the past created frictions between the IOM and the UNHCR as responsible UN agencies.⁶⁶ For Boyer (2019a), the encampment, waiting, uncertainty and heteronomy asylum seekers experience in Niger also blocks and decelerates their onward mobility and thus contributes to migration control policies. Yet limited socio-economic integration options challenge the long-term settlement of refugees in Niger and thus the efficacy of refugee protection as a containment strategy in the long run.⁶⁷

In a UNHCR study on trajectories and migration aspirations of asylum seekers, refugees and locals, Boyer (2019b) explores how protection seekers choose between the overlapping ‘migration space’ and ‘protection space’ in Niger in a context structured by uncertainty and risk.⁶⁸ While the identification of potential asylum seekers amongst transit migrants in UNHCR’s Mixed Migration approach has helped to expand the protection space in Niger, asylum seekers experience a high degree of uncertainty, dependence on humanitarian aid, and lack of choice.⁶⁹ Their protection is also affected by security-centred migration control policies, exemplified by violence and insecurity during border crossings, which impinge on the understandability and accessibility of protection for asylum seekers and thereby allow for fraud. Boyer also argues that while asylum has become a political issue in Niger with the ETM and Mixed Migration projects⁷⁰, the state lacks a fully operational asylum administration and a

Multilateral Damage. The Impact of EU Migration Policies on Central Saharan Routes. Clingendael Institute. Bøås, Morten (2020): EU Migration Management in the Sahel. Unintended Consequences on the Ground in Niger? *Third World Quarterly*, 1–16. <https://doi.org/10.1080/01436597.2020.1784002>.

⁵⁹ Hamadou, Abdoulaye (2018): La gestion des flux migratoires au Niger entre engagements et contraintes. *Revue des droits de l’homme* (14). <https://doi.org/10.4000/revdh.4378>.

⁶⁰ Bergmann, Jonas/Lehmann, Julian/Munsch, Thomas/Powell, William (2017): Protection Fallout. How Increasing Capacity for Border Management Affects Migrants’ Vulnerabilities in Niger and Mali. Global Public Policy Institute; RMMS West Africa; Danish Refugee Council.

⁶¹ Global Detention Project (2019): Country Report. Immigrant Detention in Niger. Expanding the EU-financed Zone of Suffering through ‘Penal Humanitarianism’.

⁶² Perrin, Delphine (2018): Quand le Niger et le Maroc entravent la libre circulation en Afrique. *Plein droit* 4 (119), 29–32. <https://www.cairn.info/revue-plein-droit-2018-4-page-29.htm> (last accessed: 25/07/2022).

Spijkerboer, Thomas (2019): The New Borders of Empire. European Migration Policy and Domestic Passenger Transport in Niger. In: Paul Minderhoud/Sandra Mantu/Karin Zwaan (eds.): *Caught in between Borders. Citizens, Migrants and Humans*. Tilburg, Wolf Legal Publishers, 49–60.

⁶³ Carrera, Sergio (2018): On Policy Ghosts. EU Readmission Arrangements as Intersecting Policy Universes. In: Sergio Carrera/Leonhard den Hertog/Marion Panizzon et al. (eds.): *EU External Migration Policies in an Era of Global Mobilities. Intersecting Policy Universes*. Leiden, Brill Nijhoff, 21–59.

⁶⁴ Frowd, Philippe M. (2019): Producing the ‘Transit’ Migration State: International Security Intervention in Niger. *Third World Quarterly* (13), 1–19. <https://doi.org/10.1080/01436597.2019.1660633>.

⁶⁵ Boyer/Mounkaila (2018).

⁶⁶ Boyer/Chappart (2018a).

⁶⁷ Boyer, Florence (2019a): Sécurité, développement, protection. Le triptyque de l’externalisation des politiques migratoires au Niger. *Hérodote* (172), 169–189.

⁶⁸ Boyer, Florence (2019b): La construction d’espace de protection aux visages multiples et ambiguës au Niger. *IRD*.

⁶⁹ Boyer (2019b), p. 100.

⁷⁰ Boyer (2019b), p. 83.

proper national refugee policy.⁷¹ And although the state pursues an open-door approach, its management of recent arrivals targeted their exclusion and distancing in camps.⁷² Given the high centralisation of services both by the state and the UNHCR in Niamey and Agadez, their accessibility for individual protection seekers often travelling secondary routes is limited.⁷³

Little has been published on the working of the asylum administration and adjudication in Niger. My thesis on ‘everyday externalisation’ explores such everyday practices of negotiating, contesting and subverting refugee protection in Niger in the context of EU externalisation policies.⁷⁴ In an article on the work experiences of temporary eligibility, protection, and registration staff in Niger’s Refugee Directorate, I study their acts of challenging the working conditions and power relations in the administration from within.⁷⁵ In a book chapter, I also detail practices in asylum decision-making by CNE members in reconciling hegemonic moral norms condemning homosexuality with international protection norms, by shifting their deliberations to the wider OAU refugee definition of generalised insecurity.⁷⁶

A limited number of articles have investigated the current lived experiences of refugees in Niger. Diallo (2018) ethnographically studies the living conditions of Malian *prima facie* refugees and their identity-making.⁷⁷ Focusing on Agadez’ transformation from a bustling transit town into a space where refugees and migrants get stranded due to migration control or after forced displacement from the Maghreb, Wirtz (2019) provides ethnographic accounts of their experiences in navigating their feeling of being stuck, survival and onward journeys.

In contrast, much academic work has been produced on the politicised ETM. In the academic literature, the ETM has been criticised for reducing EU-bound migration through Libya and for externalising asylum procedures to third countries.⁷⁸ It has also been criticised for masking and legitimizing EU-supported migration control measures on the Central Mediterranean Route by suggesting that protection for refugees was possible while contributing to the selection of asylum seekers in the access to protection.⁷⁹

For the ETM procedures in Niger, several studies describe the temporal clash between slow resettlement and the need of speedy evacuations from Libya as well as the lack of solutions for those evacuees excluded from resettlement.⁸⁰ Chappart (2021) highlights the active negotiation power of the Nigerien government with its European counterparts and the UNHCR and suggests a hybrid institutionalisation through the interplay of national, local, European and international actors.⁸¹ In a shorter article, I analyse the ETM as a form of extraterritorial asylum processing where its three phases with their different logic and responsible actors – evacuation from Libya, RSD and resettlement – inevitably led to rejections of

⁷¹ Boyer (2019b), p. 98-101.

⁷² Boyer (2019b), p. 120.

⁷³ Boyer (2019b), p. 134.

⁷⁴ Lambert, Laura (2022a).

⁷⁵ Lambert, Laura (2022b): Changing the Administration from Within. Criticism and Compliance by Junior Bureaucrats in Niger’s Refugee Directorate. *International Journal of Law in Context*. <https://www.doi.org/10.1017/S1744552322000271>.

⁷⁶ Lambert, Laura (2019): Asyl im Niger. Politische Rolle und lokale Adaptationen des Flüchtlingsschutzes. In: Jan Lange/Reinhard Johler (eds.): *Konfliktfeld Fluchtmigration: Historische und ethnographische Perspektiven*. transcript Verlag, 191–206.

⁷⁷ Diallo, Souleymane (2018): ‘The Truth about the Desert’. *Exile, Memory and the Making of Communities among Malian Tuareg Refugees in Niger*. Cologne, Modern Academic Publishing.

⁷⁸ Boyer/Chappart (2018a).

⁷⁹ Perrin, Delphine (2019): From one Libya to Another: The Unexpected Place of Law in Approaching Migration. *Libya in Transition* (3), 76–94. <https://doi.org/10.23810/1345.Perrin>.

⁸⁰ Jegen, Leonie/Zanker, Franziska (2019): European Dominance of Migration Policy in Niger. ‘On a fait les filles avant la mère’. *MEDAM Policy Brief 3/2019*. Jegen, Leonie (2020): *The Political Economy of Migration Governance in Niger*. Arnold Bergstraesser Institute. Freiburg. Mercator Dialogue on Asylum and Migration. Chappart, Pascaline (2021): Externaliser l’asile? Le cas nigérien. In: GISTI (ed.): *Le droit d’asile à l’épreuve de l’externalisation des politiques migratoires*. Paris: Groupe d’information et de soutien des immigré-e-s, 30–50.

⁸¹ Chappart (2021).

applicants. While the humanitarian evacuation centred on vulnerability and was a responsibility of the UNHCR in a difficult context in Libya shaped by informal practices, the asylum adjudication relied on a perceived fear of return to the country of origin. Resettlement followed resettlement countries' own interests and capacities. As a consequence of these conflicting logics, rejected applicants were stuck in Niger despite its initial role as a transit country.⁸² In another article, I explore Nigerien asylum bureaucrats' reaction to their disempowerment in RSD procedures. As in the case of managing the Sudanese asylum seekers in Agadez, Nigerien asylum bureaucrats experienced a reduced decision-making power and reacted to their perceived disempowerment with multiple strategies. They voiced criticism, developed creative solutions or, in the case of the Sudanese, slowed down the asylum procedures in order to reconcile local interests in Agadez with the global refugee protection norm of ensuring the access to asylum.⁸³

For the ETM evacuation procedures in Libya, Markous (2019) details some practices by the UNHCR and the IOM that contributed to migration control policies and donor interests. They violated the humanitarian principle of do-no-harm and bore negative consequences for refugees and migrants, staff and the host community.⁸⁴ According to van Reisen et al. (2019), detainees in Libya have difficulty accessing information on the evacuations and tend to mistrust the UNHCR.⁸⁵ Based on a literature review, Scarpa (2021) depicts protection risks for non-evacuated protection seekers in Libya. They remain subject to restrictive policies, trapping them in cycles of detention, exploitation and abuses.⁸⁶

An EU-funded evaluation of the ETM questions its scalability and sustainability for the limited number of cases and its complex procedures.⁸⁷ In the NGO literature on the ETM, the ETM has been criticised for supporting migration control and filtering asylum seekers prior to arriving on European territory.⁸⁸ From a legal perspective, ASGI (2019) argues that the ETM does not restore the right to asylum infringed upon by migration control policies in Libya and the Mediterranean, because it grants only limited access and recognition of the right to asylum and is based on a discretionary approach. Asylum seekers also lack documentation of their asylum procedure and appeal options against their exclusion from resettlement.⁸⁹

More general UN and NGO reports on migrant rights have also touched on refugee protection. In a report on Niger, the UN Special Rapporteur for the Human Rights of Migrants assesses the migration control measures in Niger and in the Maghreb as contradictory to migrant rights, including the right of *non-refoulement* and the ECOWAS free movement of persons regulations.⁹⁰ Alpes (2020) studies

⁸² Lambert, Laura (2021): Extraterritorial Asylum Processing. The Libya-Niger Emergency Transit Mechanism. *Forced Migration Review* 68, 18–21.

⁸³ Lambert, Laura (2020): Who Is Doing Asylum in Niger? State Bureaucrats' Perspectives and Strategies on the Externalization of Refugee Protection. *Anthropologie et Développement* 51, 87–103.

⁸⁴ Markous, Amara (2019): Humanitarian Action and Anti-migration Paradox. A Case Study of UNHCR and IOM in Libya. Master thesis. CERAH Genève. <https://drive.google.com/file/d/17N2EIPiWyt-mLO6zyri74FLouRRRy0U5/view> (last accessed: 25/07/2022).

⁸⁵ van Reisen, Mirjam/Smits, Klara/Wirtz, Morgane (2019): Lawless Libya: Unprotected Refugees Kept Powerless and Silenced. In: Mirjam van Reisen/Munyaradzi Mawere/Mia Stokmans et al. (eds.): *Mobile Africa. Human Trafficking and the Digital Divide*. [Place of publication not identified], LANGAA RPCID, 261–294.

⁸⁶ Scarpa, Pietro (2021): International Evacuations of Refugees and Impact on Protection Spaces. Case Study of UNHCR Evacuation Programme in Libya. Refugee Law Initiative, School of Advanced Studies, University of London. London.

⁸⁷ Altai Consulting (2021): Case Study. Emergency Transit Mechanism. Altai Consulting. June 2021. https://ec.europa.eu/trustfundforafrica/sites/default/files/etm_case_study_final.pdf (last accessed: 25/07/2022).

⁸⁸ Migreurop (2020): Protect and Control. The Janus Face of the UNHCR. Migreurop Brief 11. May 2020. http://migreurop.org/IMG/pdf/note_11_en.pdf (last accessed: 25/07/2022).

⁸⁹ ASGI (2019): The 'Emergency Transit Mechanism' Program and the Resettlement from the Niger. Legal Analysis, Current and Future Concerns. <https://www.statewatch.org/news/2019/jul/ASGI%20Resettlement%20ETM%20-%20ENGLISH.pdf> (last accessed: 25/07/2022).

⁹⁰ UNHRC (2019): Visit to the Niger. Report of the Special Rapporteur on the Human Rights of Migrants. A/HRC/41/38/Add.1 16/05/2019. <https://reliefweb.int/report/niger/visit-niger-report-special-rapporteur-human-rights-migrants-ahrc4138add1> (last accessed: 25/07/2022).

protection concerns before and after IOM's assisted voluntary return operations from Niger and Libya, which likely include potential protection seekers in Libyan detention centres.⁹¹ Bergmann et al. (2017) stress the access to protection and the right to seek asylum as one dimension of the protection sensitivity of border control measures in Niger and Mali.⁹² A report by the UNHCR and the Mixed Migration Centre documents violence and abuse of migrants on the Central Mediterranean Route to Libya.⁹³ A study by the Mixed Migration Centre reports frequent detention experiences by transit migrants, especially by the police, when travelling through Niger.⁹⁴

Based on this literature review, several research gaps with respect to refugee protection can be identified. First, little is known on the actual RSD procedures in the country and the region, including the implementation gap between legal norms and actual practices. Second, few studies have dedicated themselves to the protection that asylum seekers and recognised refugees receive as well as the interlinked protection gaps. While this report can only address these issues partially, it can open avenues for further in-depth research.

III. Methodology

This paper is informed by my doctoral studies at the Max Planck Institute for Social Anthropology and the Martin Luther University Halle-Wittenberg. While my PhD thesis is an ethnographic exploration of the changes of individual asylum and refugee protection in the context of EU externalisation, this report focalises the legal norms of refugee recognition and protection as well as their implementation within individual and *prima facie* refugee recognition processes. Between May 2018 and September 2019, I conducted 13 months of ethnographic fieldwork in the Nigerien capital Niamey and the regional town Agadez for my PhD research. As relevant thoroughfares for West and Central African transit migration to the Maghreb and settling places for urban refugees and migrants, both towns host state offices involved in RSD, refugee protection, and management. In Niamey, I conducted a participant observation in the Nigerien Refugee Directorate, the asylum street-level bureaucracy. With regards to the actual asylum decision-making, I interviewed members of the adjudicating bodies, the National Eligibility Commission and the Administrative Review Committee. I complemented these insights with further contextual interviews in Niamey and Agadez with retired and current state agents, UNHCR staff, EU partners, NGOs and interviews with 181 asylum seekers, refugees, and migrants on their migration trajectories and experiences in Niger. Outside of these towns, security issues prevented my access to RSD procedures and refugee protection practices, notably for Nigerian refugees. During a second data collection period between November 2020 and January 2021 and in September 2021, this information was updated through desk research and additional interviews with Nigerien state agents and UNHCR staff.

Prior to the beginning of the field research in 2018, the research proposal was screened for ethical and procedural issues at the Max Planck Institute for Social Anthropology (MPI) and the Martin Luther University Halle-Wittenberg. More precisely, the proposal was discussed by the MPI's Integration and Conflict Department and by my doctoral supervisors Prof. Marie-Claire Foblets, Prof. Günther Schlee and Prof. Olaf Zenker. In Niger, the proposal was presented to researchers at the research centre *Laboratoire d'Etudes et de Recherche sur les Dynamiques Sociales et le Développement Local* (LASDEL) and approved. This was the precondition for applying for a general research permit at the responsible General Directorate for Research and Innovation (*Direction Générale de la Recherche et de l'Innovation*) at the Ministry of Higher Education, Research and Innovation (*Ministère de l'Enseignement Supérieur, de la Recherche et de l'Innovation*). The research permit was granted on 7

⁹¹ Alpes, Maybritt Jill (2020): Emergency Returns by IOM from Libya and Niger. A Protection Response or a Source of Protection Concerns? Medico international; Brot für die Welt. Analysis 96.

⁹² Bergmann et al. (2017).

⁹³ UNHCR/MMC (2020): 'On this Journey, no one Cares if You Live or Die'. Abuse, Protection, and Justice along Routes between East and West Africa and Africa's Mediterranean Coast.

⁹⁴ Mixed Migration Centre (2020): Detention of Migrants and Refugees in Mali, Burkina Faso and Niger. MMC West Africa 4Mi Snapshot. <https://reliefweb.int/report/mali/mmc-west-africa-4mi-snapshot-july-2020-detention-migrants-and-refugees-mali-burkina-faso> (last accessed: 25/07/2022).

June 2018 for doing research on ‘the protection and assistance of refugees and migrants in Niger’ during one year. All interviews were subject to anonymisation procedures. Due to asylum seekers and refugees’ security concerns, these interviews were usually not recorded, but rather protocolled, which allowed for leaving out data that could lead to their identification (name, age, and, depending on the refugee group, nationality and place of residence) from the very first moment. French sources were translated into English for the purpose of this report. Original institutional names are indicated in French in italics.

The paper studies refugee protection in Niger between the mid-1990s to 2020/2021. Two limitations apply. First, access to asylum documents and statistics produced by the Nigerien state remained limited. Asylum files were not accessible due to data protection. Since Niger’s RRR is currently limited to the administration rather than courts, no case law exists which could be analysed. Statistics were difficult to access as an individual researcher in Niger, but shared with UNHCR and thus later available in UNHCR reports. A second limitation is the often-large implementation gap between the legal texts and official discourses and the actual practices in (asylum) bureaucracies.⁹⁵ It can only be fathomed by doing on-the-ground ethnographic research, which was sometimes limited for reasons such as security concerns and field access negotiations.

IV. Norms

Niger is party to the 1951 Geneva Refugee Convention (Geneva Convention), its 1967 Protocol as well as the 1969 Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Convention). As in most other African countries,⁹⁶ both Conventions’ refugee definitions were incorporated into a domestic refugee law, adopted in 1997.⁹⁷ The law has been implemented in a presidential decree of 1998, which sets out the RSD procedures and responsible institutions mentioned in the law.⁹⁸ Further ministerial decrees have specified the structure of the first⁹⁹ and second instance bodies¹⁰⁰ and the set-up of their permanent office, the Refugee Directorate (*Direction des Réfugiés*), inside the Interior Ministry.¹⁰¹

In addition to individual RSD, Niger’s regulations also allow for granting *prima facie* status. The presidential decree of the national refugee law gives the adjudicating institution, the National Eligibility Commission (*Commission Nationale d’Éligibilité au Statut des Réfugiés*, CNE), the decision power to ‘to recognise their refugee status collectively’ in ‘case of a massive arrival of people searching for asylum and especially against the material impossibility to determine their status on an individual basis’.¹⁰² After a decision on granting *prima facie* status has been made by the Commission, a ministerial decree is published for this particular group and determines their application (see VI.). Since 2000, this has been decided for protection seekers from Mali in 2012¹⁰³ and Northern Nigeria in 2020¹⁰⁴ (see X.3).

⁹⁵ Bierschenk, Thomas/Olivier de Sardan, Jean-Pierre (2014a): Ethnographies of Public Services in Africa. An Emerging Research Paradigm. In: Thomas Bierschenk/Jean-Pierre Olivier de Sardan (eds.): States at Work. Dynamics of African Bureaucracies. Boston, Brill, p.37.

⁹⁶ Sharpe (2018), p. 35.

⁹⁷ Loi N°97-016 du 20 juin 1997, portant statuts des réfugiés au Niger.

⁹⁸ Décret N°98-382/PRN/MI/AT du 24 décembre 1998 déterminant les modalités d’application de la loi n°97-016 du 20 Juin 1997 portant statut des réfugiés.

⁹⁹ Arrêté N°208/MI/AT/SP/CN du 14 juillet 2000, portant règlement intérieur de la Commission Nationale d’Éligibilité au Statut des réfugiés.

¹⁰⁰ Arrêté N°127/MI/DEC-R du 26 Mars 2006 portant création, attributions, composition et fonctionnement d’un Comité de Recours Gracieux.

¹⁰¹ Arrêté N°699/MI/SP/D/ACR du 32 Novembre 2016 portant organisation des services de l’administration centrale du Ministère de l’Intérieur, de la Sécurité Publique, de la Décentralisation et des Affaires Coutumières et Religieuses et déterminant les attributions de leurs responsables.

¹⁰² Décret N°98-382/PRN/MI/AT, art. 14.

¹⁰³ Arrêté N°142/MI/SP/AR/DEC-R du 16 Mars 2012 accordant le bénéfice de statut de réfugiés aux Maliens victims du conflit armé du Nord Mali.

¹⁰⁴ Arrêté N°571/MISP/D/ACR/SG/DGECM-R.

Nevertheless, the Commission can submit individual cases from this group to individual RSD ‘when the situation requires’ it,¹⁰⁵ i.e. when ‘the state of Niger has serious reasons’ to assume that exclusion clauses might apply.¹⁰⁶

The exclusion clauses mentioned in the Nigerien refugee law and in the *prima facie* decrees are identical in wording to the exclusion clauses cited in the OAU Convention under article 1 (5).¹⁰⁷ In the Nigerien refugee law, the OAU cessation clauses were complemented with the OAU article 3(1) that requires refugees to conform with the laws and regulations of the host country, its public order and national security, and to abstain from subversive activities against a member state of the OAU.¹⁰⁸ The refugee law presents safeguards for asylum seekers and refugees against expulsion, *refoulement* or extradition except for ‘reasons of national security or public order’.¹⁰⁹ Apart from the right to work, the law also grants refugees the same access to education, health, housing, security of the person and property, the free choice of residence as well as domestic freedom of movement (see VIII.).¹¹⁰

As a member of ECOWAS, Niger is also signatory to the community’s Protocols on Free Movement, Residence and Establishment, but the protection they offer for asylum seekers remains limited.¹¹¹ With respect to human rights treaties by the African Union, Niger ratified the African Charter on Human and Peoples’ Rights (Banjul Charter) and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention). Niger was first in translating the convention into a domestic law in 2018.¹¹² With respect to statelessness, the state has ratified the 1961 Convention on the Reduction of Statelessness in 1985 with some reservations (art. 11, 14, 15), but has only in 2014 ratified the 1954 Convention relating to the Status of Stateless Persons. As in other West African countries, the state and UNHCR are currently developing a statelessness determination procedure and intend to combine it with RSD.¹¹³

Apart from the outlined legal norms, refugee law in Niger is so far not subject to case law. This is due to the *de facto* purely administrative character of the asylum procedure. To date, appeal cases have not effectively reached the third instance high administrative court *Conseil d’État* (see V. and VII.). In light of this limited right to appeal and other reasons, UNHCR staff saw gaps in the substantial and procedural norms of RSD¹¹⁴ and in its implementation.¹¹⁵ These aspects are further discussed in the section on the quality of the RSD process (see VII.).

V. Institutions

The following section introduces the institutional structure of the RRR in Niger (see chart in X.4) and situates its development in the history of UNHCR-state relations. Afterwards it details current UNHCR-state relations and gives an outlook on reform initiatives.

1. State Asylum Institutions

As in most African and other postcolonial and post-socialist countries,¹¹⁶ the first-instance eligibility body in Niger is an inter-ministerial eligibility committee. The National Eligibility Commission (CNE;

¹⁰⁵ Décret N° 98-382/PRN/MI/AT, art. 14.

¹⁰⁶ Arrêté N°571/MISP/D/ACR/SG/DGECM-R, art. 2. Arrêté N°142/MI/SP/AR/DEC-R, art. 3.

¹⁰⁷ Loi N°97-016, art. 3.

¹⁰⁸ Loi N°97-016, art. 4.

¹⁰⁹ Loi N°97-016, art. 6-8.

¹¹⁰ Loi N°97-016, art. 9-10.

¹¹¹ Ebobrah (2014).

¹¹² Loi N°2018-74 du 10 décembre 2018 relative à la protection et à l’assistance aux personnes déplacées internes.

¹¹³ Interview UNHCR staff member, 2021.

¹¹⁴ Interview UNHCR staff member, 2018.

¹¹⁵ Interview UNHCR staff member, 2018.

¹¹⁶ Van Hövell, Wilbert/Hruschka, Constantin/ Morris, Helen/Salomons, Machiel (2014): Providing for Protection. Assisting States with the Assumption of Responsibility for Refugee Status Determination. A Preliminary Review. UNHCR - Policy Development and Evaluation Service, p. 2.

Commission Nationale d'Éligibilité au Statut des Réfugiés) is a non-permanent body that decides on asylum applications. Its main roles are deciding on individual asylum applications,¹¹⁷ adopting ministerial decrees regulating *prima facie* recognition,¹¹⁸ deciding on the annulment and cessation of refugee status,¹¹⁹ legal and administrative protection, and the application of the Geneva and OAU Conventions,¹²⁰ as well as giving opinions prior to deporting refugees.¹²¹ The CNE can also create sub-committees for specific missions.¹²² The CNE meets in irregular intervals, which causes problems for the efficiency of the RRR (see VII.3). The Nigerien CNE is particularly large with 17 members from different state and non-state structures. It comprises the presiding Assistant General Secretary of the Ministry of Interior, the vice-president from Foreign Affairs, the rapporteur from the Ministry of Justice, ten other members of various ministries from defence to public health and the Nigerien parliament, two humanitarian organisations (*Croix Rouge Nigérienne* and *Caritas-Développement*) and two human rights associations (*Association Nigérienne de Défense des Droits de l'Homme, Démocratie-Liberté-Développement*).¹²³ Most of the CNE members have a deputy from their home institution. The UNHCR participates as an 'observer' who 'can be heard on every case'¹²⁴ and has an 'advisory voice'.¹²⁵ Also present in the session are technical assistants from the commission's permanent secretariat, who assist with the organisation of the session and minute writing.¹²⁶ Additionally, the CNE can summon other guests whose competence it deems necessary.¹²⁷ The CNE members are bound to professional secrecy.¹²⁸

The commission's permanent technical secretariat is the Refugee Directorate (*Direction des Réfugiés*). It belongs to the General Directorate for Civil Registry, Migration and Refugees (*Direction Générale de l'État Civil, de la Migration et des Réfugiés, DGECM-R*) inside the Ministry of Interior, Public Security, Decentralisation, Customary and Religious Affairs (*Ministère de l'Intérieur, de la Sécurité Publique, de la Décentralisation et des Affaires Coutumières et Religieuses, MISP/D/ACR*). The CNE and its permanent office are structured as a 'project'. This institutional structure frequently used in development and humanitarian cooperation¹²⁹ implies that the office is situated inside the Nigerien administration, but receives external funding from the UNHCR and is subject to annual sub-agreements and budget negotiations. Consequently, the office has more institutional autonomy from its head department and importantly depends on the UNHCR. The Refugee Directorate is responsible for preparing the asylum files for the CNE, the follow-up and execution of the CNE decisions and recommendations, the preparation of legal drafts and correspondence, the management of the CNE budget, the monitoring of the implementation of international refugee conventions, and the preparation of annual activity reports.¹³⁰ In practice, the Refugee Directorate is responsible for the street-level contact with asylum seekers and refugees as regards registration, eligibility interviews, document delivery and protection issues. In 2019, apart from a secretariat and field offices, the directorate was structured in four divisions: protection and assistance; registration; communication and durable

¹¹⁷ Décret N°98-382/PRN/MI/AT, art. 5, art. 8.

¹¹⁸ Décret N°98-382/PRN/MI/AT, art. 14.

¹¹⁹ Loi N°97-016, art. 5. Décret N°98-382/PRN/MI/AT, art. 9. In 2014, a cessation decision was taken for Rwandan refugees, cf. UNHCR (2015a): UNHCR Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic Review: 2nd Cycle, 24th Session. Niger, p. 4.

¹²⁰ Décret N°98-382/PRN/MI/AT, art. 9.

¹²¹ Loi N°97-016, art. 7, art. 8. Décret N°98-382/PRN/MI/AT, art. 12.

¹²² Arrêté N°208/MI/AT/SP/CN, art. 7.

¹²³ Décret 98-382/PRN/MI/AT, art. 1.

¹²⁴ Loi N°97-016, art. 5.

¹²⁵ Décret 98-382/PRN/MI/AT, art. 2.

¹²⁶ Lambert (2022a).

¹²⁷ Décret N°98-382/PRN/MI/AT, art. 1.

¹²⁸ Arrêté N°208/MI/AT/SP/CN, art. 11.

¹²⁹ Olivier de Sardan, Jean-Pierre/Hamani, Oumarou/Kawaya Meya, Odon/Moussa, Kalilou (2018): Le programme Lisungi de transferts monétaires en République du Congo. Lasdel. Niamey. Études et travaux du LASDEL 125.

¹³⁰ Arrêté N°208/MI/AT/SP/CNE, art. 8.

solutions; and human resources, finances and logistics.¹³¹ The divisions were being restructured.¹³² After the last reform process in circa 2015, its overseeing structure was turned from a National Directorate into the aforementioned General Directorate. This increased its institutional capacity, for example by creating a separate division for protection, and facilitated decision-making and policy implementation processes.¹³³

Regarding the appeal procedure, asylum seekers rejected by the CNE could initially appeal only directly to the Minister of Interior.¹³⁴ Only in 2006, a restricted administrative committee for administrative reviews was introduced, the *Comité de Recours Gracieux* (CRG). It consists of four members: the presiding General Secretary of the Interior Ministry; the vice president from the Ministry of Foreign Affairs; the first rapporteur from the Ministry of Justice; and the second rapporteur from a human rights organisation (the civil society network *Réseau des Organisations de Développement et Associations de Défense des Droits de l'Homme et de la Démocratie*, RODADDHD).¹³⁵ Apart from the civil society organisation, all state departments are also represented in the first-instance body CNE. The CRG members are senior officials from these structures, which poses problems for their availability (see VII.3). They do not have designated deputies, but some effectively send representatives.¹³⁶ As in the CNE, Refugee Directorate staff assist the session and the CRG can summon further experts.¹³⁷ Although the UNHCR is not formally represented and has criticised this as an omission,¹³⁸ it usually sends an observer to the sessions and provides additional country-of-origin, legal or case information.¹³⁹

The reason for establishing the CRG (that a responsible state official gave me) was to avoid an ‘excess of power’. Before, the Minister of Interior was ‘judge and party’, because he also had the final decision in the first instance.¹⁴⁰ The following decree for the CRG foresaw that the CRG members differed from the CNE,¹⁴¹ although the three state departments remained the same. Excess of power was thus thought to be avoided by alternating individuals rather than their home institutions between the first and second instance. Nevertheless, also the CRG is legally only a ‘consultative body’ that formulates ‘opinions’ for the Interior Minister who still has the last word.¹⁴² In practice, according to a CRG member, the committee’s recommendations are mostly followed.¹⁴³ Niger’s appeal therefore remains an administrative procedure with limited independence.

For the third instance, the Nigerien texts allude to the option of a judicial review for the abuse of power (*recours pour excès de pouvoir*) at the high administrative court *Conseil d'État*.¹⁴⁴ It allows for an appeal against administrative decisions through the ‘interpretation and appreciation of the legality of administrative acts’.¹⁴⁵ This judicial review can thus overturn administrative decisions taken by the CRG by assessing if the law has been applied. Another future option could be the ECOWAS Court of Justice, a court responsible for human rights issues.¹⁴⁶ However, until 2020 this level of appeal has not yet been accessed by asylum seekers and its legal provisions have been criticised as vague (see VII.). Consequently, Niger so far has a *de facto* limited right to appeal, because appeal procedures remain on the administrative level in the CRG, which is structurally not independent from the first-instance CNE.

¹³¹ Arrêté N°699/MI/SP/D/ACR, art. 52.

¹³² Lambert (2022a).

¹³³ UNHCR (2015a).

¹³⁴ Loi N°97-016, art. 5.

¹³⁵ Arrêté N°127/MI/DEC-R, art. 3.

¹³⁶ Interviews CRG members, 2019.

¹³⁷ Arrêté N°127/MI/DEC-R, art. 3.

¹³⁸ UNHCR (2015a).

¹³⁹ Interviews CRG members, 2019.

¹⁴⁰ Lambert (2022a).

¹⁴¹ Cf. arrêté N°127/MI/D/DEC-R, art. 3.

¹⁴² Arrêté N°127/MI/DEC-R, art. 1 and 2.

¹⁴³ Interview CRG member, 2019.

¹⁴⁴ Arrêté N°127/MI/DEC-R, art. 9.

¹⁴⁵ Loi organique N°2013-02 du 23 janvier 2013 déterminant la composition, l'organisation, les attributions et le fonctionnement du Conseil d'Etat, art. 23.

¹⁴⁶ Interview UNHCR staff member, 2018.

A further effect of this handling of appeals outside the courts is that no case law exists in Niger, which could shape RSD practices or allow for a legal analysis of practices.

2. History of State-UNHCR Relations

The following section gives background information on the handover from UNHCR to the state in the late 1990s and the recent reinforcement of the national asylum institutions following large refugee displacements since 2012/2013 and the close imbrication of refugee protection with migration control since 2016/2017. While Niger's refugee recognition system was for its first 20 years centred on group recognition, its role in EU externalisation policies has contributed both to an increase in asylum applications, and to dealing with them in an individualised manner.

After gaining independence from France, Niger ratified the Geneva and OAU Conventions in the 1960s and 1970s as the legal prerequisites for refugee protection. Yet, state and largely also UNHCR responsibility for refugee protection remained marginal as asylum had low political and numerical relevance. Until the late 1990s, Niger had neither a domestic asylum law nor a state office. Instead, the UNHCR ran a small operation through the local office of the United Nations Development Program (UNDP) under supervision by the regional UNHCR office (mostly based in Dakar).¹⁴⁷ The eligibility interviews were conducted inside the UNDP and the asylum decisions were made by the regional UNHCR office. Between 1960 and 1989, the UNHCR statistics indicate only for the year 1977 that refugees were recognised under UNHCR mandate in Niger, in this case 1,500 refugees from Guinea (see table X.5.h). United States statistics indicate 17 recognised refugees registered with the UNDP in Niger for 1988.¹⁴⁸ Until 1990, Niger was considered more a refugee-generating than a receiving country.¹⁴⁹

In the 1990s, two large forced displacements occasioned a closer collaboration between the UNHCR and the Nigerien authorities and a more pronounced involvement of the state in refugee management, such as in the provision of shelter and land.¹⁵⁰ In 1990, Chadian nationals close to the former president Hissène Habré started arriving in Niger. They peaked at 3,622 refugees under UNHCR mandate in 1993, but voluntary repatriations supported by the UNHCR decreased their number to 225 already in 1997 (see table X.5.h). In 1992, Malians displaced by the Tuareg rebellions started fleeing to Niger. Their number peaked at 25,000 in 1995 (see table X.5.h), but they were also subject to voluntary repatriation measures shortly after. The Chadians were recognised *prima facie*.¹⁵¹ The status of Malians at the time is unclear.

The voluntary repatriations of the Malian Tuareg refugees 'left the Sahel without any significant refugee population'.¹⁵² With 350 recognised refugees in 1999 (see table X.5.h), Niger was the smallest refugee host country in West Africa.¹⁵³ According to a former UNHCR employee, the low refugee numbers occasioned the UNHCR to decrease its responsibility in the Sahel and lobby for the establishment of domestic asylum laws and institutions in exchange for UNHCR financial and capacity support. The UNHCR proposed the model of a national eligibility commission to the Nigerien authorities as this was at the time a 'run of the mill model' applied in postcolonial and post-soviet states.¹⁵⁴ As a UNHCR

¹⁴⁷ UNHCR (1995): UNHCR Activities Financed by Voluntary Funds. Report for 1994-1995 and Proposed Programmes and Budget for 1996. Part I. Africa Section 25- Western Africa. <https://www.unhcr.org/excom/excomrep/3ae68d860/unhcr-activities-financed-voluntary-funds-western-africa.html> (last accessed: 25/07/2022).

¹⁴⁸ US Bureau for Refugees Program (1989): World Refugees Report, p. 24.

¹⁴⁹ US Bureau for Refugee Programs (1992): World Refugee Report. A report submitted to the Congress as Part of the Consultations on FY 1993 Refugee Admissions to the United States. June 1992, p. 40.

¹⁵⁰ US Bureau for Refugee Programs (1992), p. 40.

¹⁵¹ UNHCR (2010): Submission by the United Nations High Commissioner for Refugees for the Office of the <https://www.refworld.org/docid/4c3abec72.html> (last accessed: 25/07/2022).

¹⁵² Crisp, Jeff (2000): Africa's Refugees: Patterns, Problems and Policy Challenges. *Journal of Contemporary African Studies* 18 (2), p. 158.

¹⁵³ UNHCR (2000): Refugees and Others of Concern to UNHCR. 1999 Statistical Overview. Geneva.

¹⁵⁴ Lambert (2022a).

evaluation has suggested, the model also allowed for UNHCR oversight and a stronger domestic buy-in.¹⁵⁵

Subsequently, Niger adopted its domestic refugee law in 1997¹⁵⁶ and established the CNE and its permanent secretariat. After the handover of RSD from the UNHCR to the state, the UNHCR downsized its mission due to the lack of activity. In the following years, the CNE decided a small number of asylum applications annually, with the national UNHCR staff participating as an observer, and otherwise did its work in relative autonomy.¹⁵⁷ For instance, in 2009, the UNHCR counted ten asylum applications (see table X.5.a) and three decisions taken by the CNE.¹⁵⁸ Niger then hosted a total of 326 recognised refugees, with about half of them Chadian *prima facie* refugees (see table X.5.h). It still remained the smallest refugee host country in West Africa.¹⁵⁹ As in other ECOWAS countries, this development of domestic asylum laws and institutions hence followed mass displacements and the advocacy work of the UNHCR.¹⁶⁰ Yet in the case of Niger, and likely other Sahel states, asylum laws and institutions were created in a context lacking political and numerical relevance of refugee management.

Group recognition procedures gained relevance with the mass arrival of Malian and Nigerian refugees after 2012. While Malian refugees were quickly granted *prima facie* status, refugees from Northern Nigeria received ‘temporary protection’, a status state officials described as identical to *prima facie* status, but with a temporal limit.¹⁶¹ Since 2020, Northern Nigerian refugees have received *prima facie* status, too (see VI.2). The additional funding for the Mali crisis allowed for more staffing, local offices in refugee sites and trainings. The UNHCR opened a Country Office in 2012¹⁶² and established a Headquarters and Cooperation Agreement with the state in 2014.¹⁶³ In contrast to the surge in group recognition procedures, individual RSD remained low with about 20-80 first-instance applications per year between 2013-2016 (see table X.5.a). The mass displacements hence occasioned a proper instalment of the UNHCR in Niger and a capacity-building of the Refugee Directorate, but individual RSD still remained insignificant.

Individual RSD became politically important in light of the implementation of migration control measures in Niger and North Africa. Since the 1990s, the Sahel state of Niger has become a central passage point for migrants and refugees moving on the so-called ‘Central Mediterranean Route’ from Central and West Africa to the Maghreb and potentially on to Europe.¹⁶⁴ In exchange for important EU funding and the political gains of being a relevant partner, Niger started enforcing its anti-smuggling law in 2016¹⁶⁵ by arresting smugglers, thereby curtailing the transit migration through its territory. This law already foresaw a referral of people in need of international protection to the competent bodies.¹⁶⁶ At the same time, the UNHCR Niger office adopted the ‘Mixed Migration’ approach. It argued that a ‘modest percentage’ of migrants were actually potential refugees who could be identified while transiting Niger.¹⁶⁷ The UNHCR’s vision was to ensure their ‘access to asylum and assistance without resorting to the hazardous journey northwards’ through the Sahara and the Mediterranean.¹⁶⁸ The

¹⁵⁵ Van Hövell et al. (2014).

¹⁵⁶ Loi N°97-016.

¹⁵⁷ Lambert (2022a).

¹⁵⁸ UNHCR (2010).

¹⁵⁹ UNHCR (2021a).

¹⁶⁰ Fresia (2014), p. 547.

¹⁶¹ Interviews state officials, 2019.

¹⁶² UNHCR (2012): Biennial Programme Budget 2012-2013 (revised) of the Office of the United Nations High Commissioner for Refugees. <https://www.unhcr.org/excom/excomrep/5059d8f3c/biennial-programme-budget-2012-2013-revised-report-high-commissioner.htm> (last accessed: 25/07/2022).

¹⁶³ Accord de siège et de coopération entre le Haut-Commissariat des Nations Unies pour les réfugiés et la République du Niger. Genève, 8 Mai 2014. <https://treaties.un.org/doc/Publication/UNTS/Volume%202997/v2997.pdf> (last accessed: 25/07/2022).

¹⁶⁴ Boyer/Mounkaila (2018).

¹⁶⁵ Loi N°2015-36.

¹⁶⁶ Loi N°2015-36, art. 35.

¹⁶⁷ UNHCR (2017a): Factsheet - Asylum Seekers, Refugees and Migration in Niger. Niamey, 15/05/2017. <https://data2.unhcr.org/en/documents/details/56591> (last accessed: 25/07/2022).

¹⁶⁸ UNHCR (2017a).

UNHCR successfully acquired EU funding via the Regional Development and Protection Program North Africa to improve the accessibility of the RRR, assistance and protection (see below).

More importantly, Niger took front-stage in the global news when its participation in the ETM as a humanitarian emergency solution for the crisis refugees experienced in Libya was announced in 2017.¹⁶⁹ The ETM envisaged to provide access to international protection to a total of 3,800 potential refugees with vulnerabilities held in detention centres in Libya. The legal basis for the processing in Niger was a Memorandum of Understanding (MoU) between Niger and the UNHCR in December 2017,¹⁷⁰ which was extended for another two years in early 2020.¹⁷¹ The state established a ‘technical committee’ with members from different state structures and the UNHCR, tasked to ‘assure the coordinated implementation’ of the MoU.¹⁷² Between November 2017 and May 2022, 3,710 people were evacuated from Libya to Niger.¹⁷³ A part of them had to pass the Nigerien asylum procedure (see VI.3) and have thus importantly increased the caseload since 2018. The UNHCR also considered the ETM as an opportunity for reforming and reinforcing the asylum system in Niger through EU support.¹⁷⁴ Consequently, the ETM significantly increased the RSD caseload, the funding opportunities and political importance of individual asylum in Niger.

A third aspect contributing to the political importance of individual asylum in Niger were the increasing migration control measures and violence in Algeria, Libya and Morocco, resulting in further deportations, push-backs and self-evacuations to Niger. Since 2014, Algeria has deported thousands of migrants, including protection seekers, to Niger.¹⁷⁵ In 2017/2018, about 2,000 Sudanese fled from Libya to Niger, constituting a first considerable southbound (secondary) movement to Niger. In 2018, the UNHCR expected more movements of these kinds from Libya and commissioned a study to assess future scenarios.¹⁷⁶ The UNHCR has since considered Niger ‘an alternative space for protection, including for the asylum seekers and refugees who fail to reach Europe’ in response to ‘the complex humanitarian and security situation in Libya’.¹⁷⁷

The reinforcement of refugee protection and assistance following the Mixed Migration approach, the ETM and the increasing migration control and violence in the Maghreb and in Niger all contributed to raising the individual asylum applications in Niger. They increased from 16 in 2016 to 295 in 2017 and 5,790 in 2018 and have since remained above 1,000. The largest share among the applicants have been ETM asylum seekers mostly from East Africa and Sudanese asylum seekers who fled from Libya to Niger. Only a minor number of applicants, mostly from West and Central Africa, opted for an asylum application in Niger (see table X.5.a) when migration control made their journeys difficult and assistance, protection and resettlement options made an asylum application in Niger seem attractive. For instance, the IOM only referred 157 asylum seekers from its transit centres to the UNHCR between

¹⁶⁹ Cf. RFI (2017): Le HCR évacue des migrants africains de Libye. 13/11/2017. www.rfi.fr/afrique/20171112-hcr-evacue-migrants-libye-niger (last accessed: 25/07/2022).

¹⁷⁰ Niger/UNHCR (2017): Accord entre le Gouvernement de la République du Niger et le Haut Commissariat des Nations Unies pour les Réfugiés sur l’instauration d’un mécanisme d’évacuation d’urgence de transit de la Libye vers le Niger. Niamey, 20/12/2017. Niger/UNHCR (2018): Avenant N°1 à l’accord entre le Gouvernement de la République du Niger et le Haut Commissariat des Nations Unies pour les Réfugiés sur l’instauration d’un Mécanisme d’Évacuation d’urgence et de transit de la Libye vers le Niger. Niamey, 18/06/2018.

¹⁷¹ UNHCR (2020b): Emergency Transit Mechanism. Factsheet. December 2020. <https://data2.unhcr.org/en/documents/details/83930> (last accessed: 25/07/2022).

¹⁷² Arrêté N°243/MISP/D/ACR/DGECM-R/DR du 12 avril 2018 portant création d’un Comité Technique de suivi du Mémoire sur l’instauration d’un mécanisme d’évacuation d’urgence et de transit de la Libye vers le Niger des personnes relevant du mandat de l’UNHCR.

¹⁷³ UNHCR (2022b).

¹⁷⁴ UNHCR (2018): Strengthening the State RSD Procedure Niger. Unpublished Report. Niamey.

¹⁷⁵ Boyer/Mounkaila (2018).

¹⁷⁶ Molenaar, Fransje/Ezzedine, Nancy (2018): Southbound Mixed Movement to Niger. An Analysis of Changing Dynamics and Policy Responses. Clingendael Institute.

¹⁷⁷ UNHCR (2021h).

2017 and August 2018.¹⁷⁸ At the same time, it organised voluntary return for 21,444 people from Niger to countries of origin in 2017-2018.¹⁷⁹

As a result of the majority of applicants now coming from East Africa, refugee recognition rates were higher than prior to the ETM and Mixed Migration programs. While until 2017, recognition rates in the first instance importantly varied between 0-100%, they have sat above 88% since 2018 (see table X.5.d). The recognition of numerous cases from Eritrea, Sudan and Somalia have especially contributed to high recognition rates (see table X.5.c). However, the state authorities pursued an informal Safe Third Country practice, which led to the rejection of Sudanese with active *prima facie* status in Chad for instance (see VII.2).

Apart from contributing to more asylum applications, the ETM and Mixed Migration programs facilitated the reinforcement of the RRR in Niger. European funding made it possible to double the staff, increase the trainings and material, as well as increase the top-ups for the senior management in the Refugee Directorate. The funding also allowed to raise UNHCR assistance and outreach activities for potential asylum seekers in the migration hubs of Agadez and Niamey.¹⁸⁰ Furthermore, two referral mechanisms were established between UNHCR and IOM and between them and the state.¹⁸¹ In 2017, UNHCR opened a sub-office in the transit town Agadez and supported the establishment of refugee registration and eligibility work in the Regional Refugee Directorate office in Agadez (DRECM-R, *Direction Régionale de l'État Civil, des Migrations et des Réfugiés*).¹⁸² This devolution of the asylum procedure to Agadez partly mitigated the strong centralisation of the asylum institutions in the capital Niamey – a potential limitation to the access to asylum (see VII.1).

As this short history suggests, the institutional structure of refugee recognition in Niger has repeatedly been adapted by UNHCR and the state to its encompassing context of refugee management. Nigerien state institutions were developed in a situation of low refugee numbers and UNHCR's attempt to reduce its own responsibility. With mass displacements since 2012, the state institutions and UNHCR have increased their capacity, especially for *prima facie* recognition. Individual RSD has become a centre of attention with its embedding in the EU externalisation of migration control and refugee protection since 2016/2017. It allowed for multiple institutional adaptations. The different profile of applicants, now mostly from East Africa, has contributed to higher recognition rates.

3. Current State-UNHCR Relations

Although the handover of RSD from UNHCR to Niger took place more than two decades ago, UNHCR retains a very active role in the Nigerien RRR, which it has recently expanded with the Mixed Migration and ETM programs.

Both state actors and UNHCR stressed their close and long-standing cooperation. In fact, the influence of UNHCR on the RRR is far-reaching (see chart in X.4). Registration is conducted jointly in all operations (see VI.). UNHCR also oversees the activities of the Nigerien asylum institutions and supports their capacity-building. It provides country-of-origin information (COI) for the eligibility and adjudication work given the absence of a Nigerien COI service to date. On a political level, it negotiates

¹⁷⁸ Interview UNHCR staff member, 2018.

¹⁷⁹ IOM (2019): 2018 Return and Reintegration Highlights. <https://publications.iom.int/books/2018-return-and-reintegration-key-highlights> (last accessed: 25/07/2022), p. 77.

¹⁸⁰ Lambert (2022a).

¹⁸¹ UNHCR/IOM (2016): Procédures Opérationnelles Standard pour l'identification et le référencement des demandeurs d'asile entre l'Organisation Internationale pour les Migrations (OIM) et le Haut-Commissariat des Nations Unies pour les Réfugiés (UNHCR) au Niger. Niamey, 18/01/2016. <https://www.refworld.org/pdfid/57fde5cf4.pdf> (last accessed: 25/07/2022). Niger/IOM/UNHCR (2017): Memorandum d'entente entre le Gouvernement de la République du Niger, l'Organisation Internationale pour les Migrations (OIM) et le Haut-Commissariat des Nations Unies pour les Réfugiés (HCR) dans le contexte des flux migratoires mixtes au Niger. Niamey, 02/03/2017.

¹⁸² UNHCR (2017b): Le HCR ouvre un bureau à Agadez, sur la route des flux migratoires. Niamey, 03/05/2017. <https://data2.unhcr.org/en/documents/details/56251> (last accessed: 25/07/2022). Lambert (2022a).

policy developments with the government and senior state agents. Assistance for asylum seekers and refugees is organised by UNHCR and supervised by the state.¹⁸³

Since 2018, UNHCR influence has become more pronounced with the ETM and Mixed Migration program. UNHCR then started to contribute to decision-writing and to adjudicating asylum claims in the case of the ETM (see VI.3). It also selected, trained and supervised ten state eligibility assistants in 2018, which directly impacted the recruitment and structure of the Refugee Directorate. The UNHCR has also lobbied for a stronger juridification of the asylum procedures (see VII.2) and for the abandonment of state practices it deemed problematic (see VII.).¹⁸⁴

4. Current Reform Initiatives

In 2018, an initiative for reforming the refugee law and institutions was started. At the 2019 Global Refugee Forum, Niger pledged to reform the asylum law, introduce an independent appeal procedure and a statelessness determination procedure, and develop simplified or accelerated processing methods. The state also agreed to reinforce reception and protection capacities at the borders, to grant citizenship to stateless children born in Niger, to continue the ETM and the out-of-camp policy, and to support the socioeconomic integration of refugees.¹⁸⁵

In 2020, a state committee consisting of members of different state structures and the UNHCR was established for the reform process.¹⁸⁶ UNHCR envisaged a model with smaller decentralised commissions in addition to a national commission and an independent judicial review procedure.¹⁸⁷ UNHCR also intended to increase the quality and efficiency of the asylum procedure and to improve the legal and procedural framework.¹⁸⁸ A UNHCR report from 2015 had proposed to include ‘the principle of family unity, procedural guarantees, derivative procedures, procedures for unaccompanied and separated children (UASC), the withdrawal and abandonment of a claim, reception facilities and assistance, non-penalisation, detention and confidentiality’ and formalising UNHCR’s observer role in the CRG.¹⁸⁹ While a shared concern between UNHCR and senior state officials was a stronger decentralisation of the procedure, the UNHCR proposal of largely shifting the funding responsibility for the asylum administration to the state was debated among state officials.¹⁹⁰

With the reform process ongoing in 2021, the outcomes on a legal, institutional and procedural level cannot be assessed at the time of writing.

VI. Modes of Recognition

The Nigerien refugee law offers options of individual RSD and *prima facie* group recognition. The presidential decree to the 1997 refugee law allows for *prima facie* procedures in ‘case of a massive arrival of people searching for asylum and especially against the material impossibility to determine their status on an individual basis’ (see IV.).¹⁹¹ Focusing on the period between 2012 and 2020, the following section first details the procedures for *prima facie* recognition of refugees from Mali and Northern Nigeria and subsequently describes individual RSD procedures.

¹⁸³ Lambert (2022a).

¹⁸⁴ Lambert (2022a).

¹⁸⁵ UNHCR (2021c).

¹⁸⁶ Arrêté N°987/MISP/D/ACR/SG/DGECM-R du 13 Novembre 2020 portant création, attribution, composition et fonctionnement d’un Comité de révision des textes sur les réfugiés.

¹⁸⁷ UNHCR (2018).

¹⁸⁸ UNHCR (2018). Interview UNHCR staff member, 2021.

¹⁸⁹ UNHCR (2015a).

¹⁹⁰ Lambert (2022a).

¹⁹¹ Décret N° 98-382/PRN/MI/AT, art. 14.

1. Malian Refugees: *Prima Facie* Recognition

With the start of the Mali crisis in 2012, the CNE adopted a ministerial decree to grant *prima facie* status to the ‘Maliens who entered Niger following the armed conflict that erupted in January 2012 in Northern Mali’.¹⁹² Given the protractedness of the Mali crisis, it continues to remain in effect in 2021.

In 2019, I observed some *prima facie* interviews conducted by a state protection agent. Upon first presentation, Malian applicants received an appointment for about six to eight weeks later. The protection agent would then do a ‘screening’ with a written evaluation, usually attended by a UNHCR protection agent. The protection agent explained that the screening, lasting about five minutes, comprised a limited number of questions on their date of arrival, their occupation in Niger, when they left Mali and for which reasons, and why they did not leave back in 2012 when the conflict started. They also verified identity documents. In the evaluation form I saw, they noted down a short summary of the applicant’s narrative and the interviewer’s evaluation on the applicant’s attitude, reason for persecution, well-founded fear, material element and external credibility based on a comparison of the narrative and country-of-origin information. They could also note the assistance need. Subsequently, a small panel studied this evaluation and took a decision. If the application was ruled positive, a joint state-UNHCR registration team would register the refugee in UNHCR’s biometric ProGres database. Subsequently, the refugee received a refugee card and was eligible to assistance.¹⁹³ I could not confirm if an appeal procedure was *de facto* supported. The UNHCR study on RSD in Niger mentioned the need to develop decision templates also ‘for *prima facie* cases, in order to allow appeal’.¹⁹⁴

Despite the limited range and depth of interview questions, all five screenings I observed led to negative evaluations. In the interviews observed, some of these cases were clearly unfounded. In the evaluation, a man was quoted as ‘having lost his lust for life in Mali’, his precarity and need of assistance as a reason to come to Niger. A woman said she had left Mali due to the death of her husband. Another woman said she had lived in Niger for nearly 30 years. In two other cases, however, the agents’ assessments seemed more debatable. A man said that he had left Mali due to insecurity and also that he wanted to go to Europe. The agent classified his reason of persecution as ‘not convincing’, his well-founded-fear as ‘more or less’, the material element as ‘none’ and the external credibility as ‘insecurity, but he also says he wants to go to Europe’. A woman stated she had come to Niger in 2012 and did not receive a registration appointment back then and lost her identity documents thereafter, which she supported with a police report. The agent classified her reason for persecution as ‘more or less valid’, saw the well-founded fear as ‘not really convincing’ and did not see a material element.¹⁹⁵

These examples of *prima facie* screenings for first-time Malian applicants suggest three points. First, the observed applicants presented narratives that stood in conflict with refugee law, possessed little knowledge on the meaning of the definition of a ‘refugee’, and sometimes openly connected the refugee status to advantages, such as assistance and travelling to Europe. Second, the protection staff conducting these interviews did not stick to the pre-defined legal categories in the evaluation form and took vague assessments (‘more or less’, ‘not really’). Third, state bureaucrats suspected these late-arrival applicants of lying. When I commented that the observed cases had been rather negative, the agent replied: ‘For the Malians, there are now those who lie [...] in the hope of assistance’.¹⁹⁶ The limited knowledge of the RRR on the part of the applicants and state officials as well as the suspicion of aid appropriation likely contributed to negative decisions in these *prima facie* screenings.

Already in 2014, the states of Mali and Niger and UNHCR concluded a tripartite agreement on the voluntary returns of Malian refugees. In March 2020 alone, 2,253 Malians requested voluntary return assistance. However, in the past years, a high number of returnees came back to Niger due to the

¹⁹² Arrêté N° 142/MI/SP/AR/DEC-R.

¹⁹³ Participant observation, 2019, exact date anonymised.

¹⁹⁴ UNHCR (2018).

¹⁹⁵ Participant observation, 2019, exact date anonymised.

¹⁹⁶ Participant observation, 2019, exact date anonymised.

ongoing insecurity.¹⁹⁷ Another reason was the financial assistance available for voluntary return in the context of diminished assistance for Malian refugees.¹⁹⁸ These returnees were also interviewed with a similar evaluation form as detailed above.¹⁹⁹

Consequently, although the recognition mode for Malian refugees fleeing the crisis in Northern Mali has been facilitated by allowing for a *prima facie* procedure since 2012, new arrivals were confronted with assessments of their displacement reasons that could lead to negative decisions. As I was able to observe only a limited number of cases, further research could help corroborate these findings.

2. Northern Nigerians: Prima Facie Refugee Recognition

Since July 2020, refugees from the six Northern Nigerian states – Borno, Yobé, Adamawa, Sokoto, Katsina, Zamfara – have been recognised *prima facie* based on a ministerial decree adopted by the CNE.²⁰⁰ In the following I distinguish the recognition modes for two groups. First, Nigerian refugees who fled to Diffa in South-Eastern Niger since 2013 following the Boko Haram insurgency and who were granted temporary protection until 2020 and then granted *prima facie* status. Second, the Nigerian refugees who fled to Maradi in Niger's central South since 2018/2019 and who have been subjected to *prima facie* procedures.

2.1 Diffa

In July 2020, the recognition mode for refugees from Northern Nigeria has been shifted from temporary protection to a *prima facie* procedure. The original ministerial decree, published in December 2013 following a decision by the CNE, foresaw a temporary status 'until the situation normalises' for refugees displaced by 'events in their states since 14 May 2013'.²⁰¹ A former state agent recalled that the decision to grant temporary group protection was rooted in an assumption of an imminent stabilisation, an assessment the directorate later called into question.²⁰² Additionally, the UNHCR saw the state's decision to give temporary protection based in 'security considerations'²⁰³ and suspicions that there were 'former combatants' among the refugees.²⁰⁴ The perceived temporariness and securitisation of the applicants therefore initially caused a resort to temporary protection, which apart from its temporal limit granted the same rights as a *prima facie* status. A difficulty for the *prima facie* procedure was that these displacements concerned mixed movements composed of Nigeriens who had settled for a long time in Nigeria as well as ethnicities with cross-border movements and relations.²⁰⁵ Distinguishing these groups as either Nigerian refugees, Nigerian 'returnees', or IDPs, is in practice presumably difficult and carries effects on the assistance and protection they can receive.

The protractedness of refugee displacement to Diffa was one reason for reforming the recognition mode for refugees from Northern Nigeria to a *prima facie* procedure in 2020. A second reason was the new forced displacement from the North-Western Nigerian states to the Nigerien region Maradi since 2018/2019 (see below). In July 2020, the Nigerien Ministry of Interior published a new ministerial decree that concerned both groups from the six concerned Northern Nigerian states – Borno, Yobé, Adamawa, Sokoto, Katsina, Zamfara – and replaced the former ministerial decree.²⁰⁶ This time, the decree explicitly mentioned 'generalised insecurity in North Nigeria' as a reason to grant *prima facie*

¹⁹⁷ Interview former state agent, 2019.

¹⁹⁸ Interview UNHCR staff member, 2018.

¹⁹⁹ Participant observation, 2019, exact date anonymised.

²⁰⁰ Arrêté N°571/MISP/D/ACR/SG/DGECEM-R.

²⁰¹ Arrêté N°806/MI/SP/D/AR/DEC-R, art. 1.

²⁰² Interview former state agent, 2019.

²⁰³ UNHCR (2015a), p. 5.

²⁰⁴ Interview UNHCR staff member, 2018.

²⁰⁵ Cecchinell, Lola/Smirnova, Tatiana (2018): Aide humanitaire, stratégies de subsistance et mobilités dans la région de Diffa. Danish Refugee Council; USAID.

²⁰⁶ Arrêté 571/MISP/D/ACR/SG/DGECEM-R.

status.²⁰⁷ The new decree mentions the same exclusion clauses and the option to conduct an individual RSD if the state has ‘serious reasons’ to assume exclusion clauses.²⁰⁸

Despite these legal changes, the procedure itself has not changed since 2014, according to the responsible Regional Refugee Directorate office.²⁰⁹ A staff member described the procedure as follows. In sessions with many protection seekers present, a state protection agent interviews a head of household on a number of questions, such as on their origin, the reason for displacement, the experiences during the displacement and security-relevant information, such as combatant activities. This interview is observed by a UNHCR protection staff member. Under observation by the UNHCR, a protection agent from the Refugee Directorate takes the decision. For cases of conflict, a ‘litigation table’ (*table de litige*) is foreseen where rejected applicants can have their cases re-examined.²¹⁰ As in the case of Malian *prima facie* refugees, I could not confirm if an appeal procedure was *de facto* implemented. Following a positive decision, the applicants are biometrically registered in UNHCR’s ProGRES database in a joint team of UNHCR and state agents.²¹¹ In 2015, the UNHCR saw a share of the refugee population at risk of statelessness, because 80% of displaced were registered without identity documents.²¹²

2.2 Maradi

With regards to the *prima facie* procedure for Nigerian refugees in Maradi, the RRR was structured first by a humanitarian emergency operation since mid-2019 and its subsequent legalisation in 2020. In 2019, UNHCR’s first response consisted of guaranteeing an open border and *non-refoulement*. Registration was conducted on the household level as a rapid identification to formulate an ‘emergency response’. Then, a biometric registration of every person was to follow, including their fingerprints and identity.²¹³ The UNHCR at this time pursued a pleading to the government to adopt the above-mentioned decree to grant *prima facie* status.²¹⁴ In practice, though, the UNHCR handled these people of concern already as *prima facie* refugees²¹⁵ before the ministerial decree was published a year later.²¹⁶ As this practical example of refugee recognition suggests, a shared concern between the UNHCR, the state, NGO and security actors led to a practical definition of the situation informing quick emergency responses. This working definition was then only later legally anchored.

On the procedural level, the biometric registration is conducted jointly by state and UNHCR agents.²¹⁷ According to a UNHCR staff member, the refugee recognition is done on the basis of a ‘database resulting from the ongoing biometric registration’. Applicants have been asked on their ‘identity, place of origin and every other aspect that allow for *prima facie* identification as well as potential exclusion factors’.²¹⁸ In contrast to Malian refugees and those Nigerians in Diffa (see VI.1), the biometric data collected on the individual level seems to be the basis for the *prima facie* recognition. This might be due to the humanitarian emergency handling of their displacement and a lower suspicion of exclusion clauses for these refugees. The overwhelming majority were women and minors who might cause less concerns about the possibility of being (former) combatants.

As this overview suggests, the RRR for refugees from Northern Nigeria, constituting by far the largest refugee group in Niger, was facilitated as a *prima facie* procedure in 2020 following the protractedness of their displacement and new arrivals. Already in the same year, a tripartite agreement between the

²⁰⁷ Arrêté 571/MISP/D/ACR/SG/DGECM-R, art. 3.

²⁰⁸ Arrêté 571/MISP/D/ACR/SG/DGECM-R, art. 2.

²⁰⁹ E-mail exchange with DRECM-R Diffa staff, 2021.

²¹⁰ E-mail exchange with DRECM-R Diffa staff, 2021.

²¹¹ E-mail exchange with DRECM-R Diffa staff, 2021.

²¹² UNHCR (2015a).

²¹³ Participant observation UNHCR information session Maradi, 2019.

²¹⁴ UNHCR/Niger (2019).

²¹⁵ Interview UNHCR staff, 2019.

²¹⁶ Arrêté N°571/MISP/D/ACR/SG/DGECM-R.

²¹⁷ UNHCR (2020c): Factsheet Maradi Niger. October 2020. <https://data2.unhcr.org/en/documents/details/79136> (last accessed: 25/07/2022).

²¹⁸ E-mail exchange UNHCR staff, 2021.

states of Nigeria, Niger and the UNHCR was being prepared for facilitating their voluntary return to Nigeria.²¹⁹

3. Individual RSD

Asylum seekers who do not fall in the aforementioned *prima facie* categories have to apply for asylum in the Refugee Directorate headquarters in Niamey or the regional office in Agadez. This section first describes the general procedures before elaborating on the procedural specificities of the morality check, the profiling in Agadez, the security screening for Sudanese applicants and UNHCR mandate RSD for the ETM.

When applicants present themselves for the first time, they have to undergo a short informal conversation with a staff member who asks them to come back with a hand-written asylum application letter stating the reasons for their application, a filled-in registration form, and documents supporting their request.²²⁰ These documents, such as passports and visa, birth certificates, drivers' licenses and diploma of original documents, are copied and inserted into the asylum file. The nine-page registration form lists the following information: personal details and family members, educational and professional background, prior asylum applications and assistance, possessions, addresses in the past five years, documents and travel itinerary, organisation membership, reasons to leave the country, controls experienced at the border, fears of return, third countries of residence, contact with authorities of the country of origin, military service and army membership, prior arrests, health problems and further information.²²¹ The applicants are then registered by the Refugee Directorate with a case number. After a short review of the application by supervisors, asylum seekers receive a three-month asylum seeker attestation and are biometrically registered by state and UNHCR staff in UNHCR's ProGres. In 2018-2019, applicants in Agadez did not receive an asylum seeker attestation.²²²

After an unspecified time, the applicants are contacted by the national police to pass a so-called 'morality check' (*Enquête Administrative (de Moralité)*, see below). Afterwards, the eligibility staff in the Refugee Directorate conduct an eligibility interview with them, in the presence of a UNHCR translator if required. The interview is directly transcribed in an RSD interview form. The form documents the following aspects: personal details, travel itinerary, education and work, identity documents, family composition, political affiliation, military profile, reason for departure, fear of return and internal flight alternative, credibility assessment on nationality, ethnicity, clan membership, place of residence and itinerary, exclusion clauses and exploitation.²²³ After the interview, the interviewer or sometimes another eligibility agent evaluates the interview and recommends refugee recognition or rejection. In case of further need of information, complementary interviews can be conducted. The complete asylum file, consisting of the hand-written asylum application, asylum seeker attestation, registration form, document copies, the report on the morality check, eligibility interview transcript and evaluation, is then copied and distributed to the CNE members, generally a week before the commission meets for its next session to allow them to study the files beforehand.²²⁴

According to the CNE members interviewed in 2019, the CNE sessions are organised in the following way. The sessions, held in conference halls in Niamey or regional capitals, are opened by the president or his vice-president, followed by an overview of the UNHCR on the country-of-origin situation. Before the deliberation, members can ask questions on asylum adjudication which will be answered by the rapporteur and other experienced participants. Then the rapporteur proceeds to the first asylum file and reads out its summary. Each member justifies their decision around the table. The individual

²¹⁹ UNHCR (2020d): Mise à jour des chiffres des populations déplacées dans la région de Diffa. 30 Septembre 2020. <https://data2.unhcr.org/en/documents/details/79489> (last accessed: 25/07/2022).

²²⁰ Décret N° 98-382/PRN/MI/AT, art. 6.

²²¹ Registration form on file with the author.

²²² Lambert (2022a).

²²³ Interview form on file with the author.

²²⁴ Arrêté 208/MI/AT/SP/CNE, art. 4.

justification is essential for voicing concerns. Based on the vote count, the rapporteur announces the result: the relative majority wins.²²⁵ In case of a tied vote, the president has a casting vote.²²⁶ After the session, the rapporteur summarises the results and deliberations in the minutes of the *Procès-Verbal*.²²⁷ Based on these minutes, the Refugee Directorate composes ministerial decision letters. Negative decision letters include a short explanation of the decision and further remedies. *De jure*, the Minister of the Interior has the last word in the decision, but has *de facto* always complied with the CNE's ruling.²²⁸

In case of a negative first-instance decision, the applicant is given 60 days to file a request for administrative review to be decided in the CRG or else apply for a residence title with the police department *Direction de la Surveillance du Territoire*.²²⁹ For an appeal request, the applicant has to hand in a hand-written appeal application letter with 'new elements' supporting the request,²³⁰ fill out an appeal form and add supporting documents.²³¹ When enough appeal files have accumulated – a CRG member spoke of a minimum of four files – the Refugee Directorate organises a session, copies the asylum files and transfers them to the CRG members 15 days before the session. During the meeting, the CRG members discuss each case individually and collect further information, such as country-of-origin information from Foreign Affairs or the UNHCR and the featuring of an applicant on a security-related list.²³² When the facts are established, the committee generally takes decisions by consensus and, in the case of a lack thereof, by two-third majority.²³³ After the session, the rapporteur composes the minutes detailing the decisions and discussions in the form of a *Procès-Verbal*.²³⁴ Based on these minutes, the Refugee Directorate composes a ministerial decision letter.

In case of a negative appeal decision, applicants can potentially seek further legal remedies with the *Conseil d'État*, the high court established in 2013 for reviewing administrative decisions.²³⁵ However, the relevant legal texts do not specify the procedure. The 1997 refugee law and the ministerial decree on the CRG only vaguely mention judicial reviews before a 'competent [...] court'.²³⁶ The procedure was also not specified in the second-instance decision letters that applicants received in 2020.²³⁷ *De facto*, the third-instance level has not been practically tested. According to an observer, an asylum seeker handed in a legal appeal request for the first time in 2020. However, the *Conseil d'État* refused dealing with this case and returned it to the Refugee Directorate, suggesting that the legal procedures had not been clarified enough for the court to take action.²³⁸

Apart from these general modes of individual RSD, a few procedures have been developed for specific asylum seeker profiles while others have been exempted from them. These procedures, namely the morality check, the profiling in Agadez, the security screening for Sudanese asylum seekers and the recognition under UNHCR mandate for most ETM asylum seekers are detailed in the following.

3.1 Morality Check

The morality check (*Enquête Administrative (de Moralité)*) is a specificity of the Nigerien RSD procedure and a recurring administrative practice in the country for controlling the access to high offices in the jurisdiction or politics, such as magistrates, traditional chiefs and politicians, and for obtaining

²²⁵ Lambert (2022a).

²²⁶ Décret N° 98-382/PRN/MI/AT, art. 8.

²²⁷ Décret 98-382/PRN/MI/AT, art. 8.

²²⁸ Interview CNE members, 2019.

²²⁹ Décret N° 98-382/PRN/MI/AT, art. 16. Arrêté N°127/MI/DEC-R, art. 10. Example of negative decision letter on file with the author.

²³⁰ Décret N° 98-382/PRN/MI/AT, art. 15.

²³¹ Arrêté N°127/MI/DEC-R, art. 14.

²³² Interviews CRG members, 2019.

²³³ Arrêté N°127/MI/DEC-R, art. 6.

²³⁴ Interviews CRG members, 2019.

²³⁵ Loi organique N° 2013-02, art. 23.

²³⁶ Loi N° 1997-16, art. 5. Arrêté N°127/MI/DEC-R, art. 9.

²³⁷ Example second-instance negative decision letter, 2020, on file with the author.

²³⁸ Interview informant, 2021.

the Nigerien citizenship.²³⁹ Since the establishment of the Nigerien asylum procedure, an ‘investigation conducted by the president of the commission’ has to be included in the asylum file.²⁴⁰ This is done by the central service for administrative inquiries (*Service Central des Enquêtes Administratives*), a service within the national police’s general intelligence department *Direction des Renseignements Généraux*.

A tasked police officer described the procedure in 2019 as follows. Generally, before the eligibility interview, the police unit summons the asylum seeker for an interview at the police station. An officer asks questions on the identity and family background, professional experience, military service, personal property, the persecution history, and choice of Niger. The officer then does a credibility assessment by checking the information given with the officer’s own collection of country-of-origin information based on other asylum narratives, internet research, and journals. Afterwards, the officers visit the indicated neighbourhood to interview neighbours about the applicant’s ‘social behaviour’. Finally, an officer checks if the judiciary police has already created a police file on the applicant, indicating a criminal activity. The police officer then combines these elements in a confidential report of about three pages and draws a conclusion on the applicant’s morality.²⁴¹ The recommendation could attest a good or bad ‘morality’, but also a medium conclusion (*à toutes fins utiles*). The morality check is then used in the asylum adjudication of the CNE for balancing the refugee law with societal moral values, for providing information on potential exclusion factors and security threats and for internal credibility assessments.²⁴²

The morality check constitutes a challenge for the accessibility and accuracy of refugee recognition. It can negatively affect the outcomes of LGBTIQ* cases and applicants might abandon the asylum procedure when summoned to the police (see VII.1, VII.2). While the UNHCR has clearly called for abolishing the morality check,²⁴³ state officials took diverging stances on continuing this procedure in 2019. However, asylum seekers in the ETM and in Agadez were exempted from the morality check.²⁴⁴ For the ETM, these exemptions intended to increase the processing speed and avoid negative claims as part of a political mobilisation against the program that was controversial in Niger. The Sudanese in Agadez were mostly segregated from Nigerien neighbours in a remote camp that prevented their assessments.²⁴⁵

3.2 Agadez: Profiling and Screening

For the asylum procedure in the migration hub Agadez, several procedural particularities have been developed. The UNHCR introduced a profiling to help identify potential asylum seekers in mixed movements before the state asylum procedure. A partner NGO conducted a smartphone-based profiling of migrants interested in applying for asylum. In 2018/2019, it included questions on their place and country of origin and other basic biodata, reasons for persecution, fear of return, the reason to come to Agadez, the wish to stay in Niger and Agadez as well as their specific needs. The data was subsequently sent to UNHCR protection staff. According to one of them, the following screening interview could

²³⁹ Loi N°2019-77 du 31 décembre modifiant et complétant la loi 2018-36 du 24 mai 2018, portant Statut de la Magistrature, art. 25. Loi N°2014-60 du 05 novembre 2014, portant modification de l’ordonnance n°84-33 du 23 août 1984, portant Code de la nationalité nigérienne, modifiée par l’ordonnance n°88-13 du 18 février 1988 et l’ordonnance n°99-17 du 4 juin 1999, art. 13. Ordonnance N°84-33 du 23 août 1984 portant code de la nationalité nigérienne, art. 26. Lund, Christian (2009): Les dynamiques politiques locales face à une démocratisation fragile (Zinder). In: Jean-Pierre Olivier de Sardan/Mahaman Tidjani Alou (eds.): Les pouvoirs locaux au Niger. Paris/Dakar, CODESRIA; Karthala, 89–112. ActUNiger (2016): La décision de la cour constitutionnelle: un camouflet pour le Guri system et ses ‘services compétents’. 10/01/2016. <https://actuniger.com/tribune-opinion/11036-la-d%E9cision-de-la-cour-constitutionnelle-un-camouflet-pour-le-guri-system-et-ses-%AB-services-comp%E9tents-%BB.html> (last accessed: 25/07/2022).

²⁴⁰ Décret 98-382/PRN/MI/AT, art. 6.

²⁴¹ Letter from the Service central des enquêtes administratives to the Président de la Commission Nationale d’Éligibilité, 2014, exact date anonymised, seen by the author.

²⁴² Lambert (2019). Lambert (2022a).

²⁴³ UNHCR (2018).

²⁴⁴ Interview UNHCR staff member, 2021.

²⁴⁵ Lambert (2022a).

result in excluding clearly unfounded cases, in prioritising vulnerable cases in the processing as well as in the identification of statelessness. Those not excluded were then sent to the Regional Refugee Directorate office (DRECM-R) to file their asylum application, and get registered both biometrically in UNHCR's ProGres database and in the paper form of the government. In parallel to the profiling, asylum seekers could also present themselves to the DRECM-R.²⁴⁶

As the profiling and screening suggests, the NGO processing of individual data and UNHCR assessments of eligibility claims in Agadez could precede the eligibility procedure by the state. Although a UNHCR staff member stressed that no applicant was excluded through the NGO's profiling but only through the UNHCR's screening, the profiling still complicated the access to the asylum procedure. A one-day participant observation suggested limited knowledge on refugee law on the part of the tasked NGO staff. They attempted to profile a Nigerien citizen as an asylum seeker and entered false information into the questionnaire.²⁴⁷ This might later be used in the screening and eligibility interviews for cross examination and as potential evidence on lacking internal credibility.

3.3 Sudanese Asylum Seekers in Agadez: Security Screening

Although initially 2,000 Sudanese asylum seekers in Agadez represented a large caseload that overwhelmed the Regional Refugee Directorate, their securitisation prevented early on their *prima facie* group recognition. Apart from a push-back and an initial stop and then slow-down of their case processing (see VII),²⁴⁸ the authorities also introduced an individual security screening prior to the RSD procedure in order to preserve the civil and humanitarian character of asylum. In negotiations with UNHCR following the state-organised push-back of 135 Sudanese asylum seekers to Libya in May 2018, the Nigerien authorities made the security screening a precondition for the Sudanese' access to the asylum procedure. The authorities explained this with the suspicion that among them were (ex-)combatants. Officially, the procedure was later called an 'in-depth evaluation of the situation' (*évaluation approfondie de la situation*).²⁴⁹

An early screening was conducted in 2018 with 119 Sudanese minors in order to prepare their transfer to the capital. The panel was composed of the Adjunct Regional Director of the National Police, a youth judge, a state protection agent and a UNHCR protection officer. None of the minors was excluded. In the later RSD processing of Sudanese applicants, the DRECM-R also exempted vulnerable profiles from the security screening.²⁵⁰

For adult applicants, a committee was established, but without adopting a ministerial decree to formalise the procedure. The committee consisted of more security actors – among them the national guard, gendarmerie, military, national police – as well as magistrates and municipal authorities. The UNHCR protection unit trained the committee members and developed the evaluation form together with the state authorities. According to a CNE member, the evaluations contained assessments of the morality, behaviour, and an imprecise middle ranking (*à toutes fins utiles*), while the exclusion clauses mentioned did not correspond with the refugee law.²⁵¹

After the first 200 files were attested as civil profiles, the state authorities agreed to UNHCR's plea to abandon the security screening in 2019. Nevertheless, a UNHCR staff reported that in a tense security situation and in the preparation of local and national elections in November 2020, the regional office DRECM-R in Agadez, under instruction of the Refugee Directorate, obliged asylum seekers to pass an additional interview at the national police station.²⁵²

The example of the security screening suggests an adaptation of the RSD procedure to a political and societal securitisation of asylum seekers. Its creation, its abandonment in 2019 and adapted renewal in

²⁴⁶ Interview UNHCR staff member, 2019.

²⁴⁷ Participant observation profiling, Agadez, 2019.

²⁴⁸ Lambert (2020).

²⁴⁹ Lambert (2022a).

²⁵⁰ Lambert (2022a).

²⁵¹ Lambert (2022a).

²⁵² Lambert (2022a).

late 2020 hint to the interest of state authorities to know more about the security profiles of applicants than the regular RSD procedures allow them to.

3.4 ETM: UNHCR Mandate RSD

Evacuees in the Emergency Transit Mechanism could pass multiple RSD procedures. First, they could receive the refugee status under mandate by the UNHCR in Libya and be either directly resettled from Libya or via Niger. Second, they could pass the asylum procedures in Niger.²⁵³ Third, since September 2019 evacuees have also been brought to Rwanda for their processing.²⁵⁴ The following analysis focusses on the refugee recognition procedures in Niger and shortly discusses developments in the screening in Libya.

For the evacuees in the ETM who were brought from Libya to Niger to pass their RSD and resettlement procedures there, the eligibility work and later also the asylum adjudication has in the course of the project been decisively shifted from the Nigerien authorities to the UNHCR.²⁵⁵ The initial MoU from December 2017 between Niger and the UNHCR foresaw that the UNHCR did the eligibility interviews and analysis including a recommendation and then submitted these files to the CNE for the adjudication.²⁵⁶ If a case was rejected in the first instance, the applicant could file an appeal at the CRG. For this step, the UNHCR offered counselling and again prepared the files, including a recommendation.²⁵⁷ The MoU hence initially established an eligibility cooperation between Niger and the UNHCR, followed by a resettlement procedure. This close cooperation was the case for only the first six months of the project.

In June 2018, the UNHCR negotiated an amendment with the Minister of Interior. It stated that in case of a resettlement country's readiness, ETM cases could be resettled before they received a Nigerien refugee status.²⁵⁸ *De facto*, the UNHCR adjudicated nearly all ETM cases in 2019 under its mandate, with only a minority being handed to the CNE. The UNHCR recognised 560 cases under UNHCR mandate between January and June 2019. In the same period, the CNE adjudicated zero ETM cases and had 15 waiting for adjudication.²⁵⁹

The UNHCR confirmed in several interviews that only in case of a negative decision by the UNHCR were the cases handed to the CNE and explained that the national RSD took too long for a resettlement-oriented operation and that it was under much political pressure from the resettlement countries. Handing the rejected cases to the CNE was still needed, because the UNHCR did not have a territory and only Niger had the capacity to deport or legalise people. In January 2021, the case processing under UNHCR mandate was still the common practice. In 2019, some Nigerien asylum bureaucrats regretted this shift of the RSD from the state to the UNHCR as a disempowerment and weakening of national sovereignty.²⁶⁰

Registration and RSD under UNHCR mandate

For the RSD process under UNHCR mandate in Niger, the Nigerien state delivered immigration visas to evacuees prior to the evacuation from Libya. After the arrival in Niger, evacuees were subjected to a verification interview and registered biometrically in UNHCR's ProGres database.²⁶¹ The Nigerien

²⁵³ UNHCR (2019a): Libya-Niger Situation. Resettlement Update #67. <https://data2.unhcr.org/en/documents/details/70026> (last accessed: 25/07/2022).

²⁵⁴ European Commission (2019): Communication from the Commission to the European Parliament, the European Council and the Council. Progress Report on the Implementation of the European Agenda on Migration. COM (2019) 481 final. 16/10/2019. <https://ec.europa.eu/migrant-integration/librarydoc/progress-report-on-the-implementation-of-the-european-agenda-on-migration> (last accessed: 25/07/2022).

²⁵⁵ Lambert (2020).

²⁵⁶ Niger/UNHCR (2017), art. 3 (5).

²⁵⁷ Interview UNHCR staff member, 2019.

²⁵⁸ Niger/UNHCR (2018), art. 3 (5) iii.

²⁵⁹ Lambert (2020).

²⁶⁰ Lambert (2020).

²⁶¹ UNHCR (2020b).

immigration police *Direction de la Surveillance au Territoire* registered the asylum seekers in an identification form (*fiche d'identification de réfugié*), took their fingerprints manually and registered them in the biometric software MIDAS, the IOM border management information system used at the land borders in Niger. Based on this registration, the asylum seekers received a six-month visa. This procedure stood in contrast to other asylum seekers in Niger who were not registered biometrically by the immigration police, but only in the UNHCR database ProGres. According to a member of the technical committee for the ETM, the committee insisted on these procedures 'because they need to know who is in Niger'.²⁶²

For the RSD under UNHCR mandate, an UNHCR eligibility staff in Niamey interviewed the applicant, wrote the decision and had a supervisor check it. In 2019, the RSD was conducted as either regular RSD or a merged process. The latter allowed for a quicker processing based on the profile of the applicant. An appeal was possible within a delay of 60 days and might involve another interview. Compared to the state, a UNHCR staff member considered the procedure to be quick and take a month. Nevertheless, another UNHCR official reported a backlog on the level of the UNHCR in 2019.²⁶³

Screening in Libya

With respect to the selection procedures of candidates in Libya, reliable information is limited. At any time, the number of evacuees represented only a small share of the people held in detention in Libya out of the total of about 50,000 asylum seekers and refugees registered with the UNHCR in Libya.²⁶⁴ In light of this limited access to asylum for potential protection seekers in Libya and the potentially discretionary approach in their selection, the NGO ASGI criticised that the ETM did not restore the right to asylum infringed upon by border control policies.²⁶⁵

According to the UNHCR, the selection of candidates in Libya is based on their vulnerabilities²⁶⁶, which leads to a prioritisation of cases for their evacuation. Women and minors figure high on the list.²⁶⁷ However, as I detail elsewhere, a constitutive tension for the ETM lay between this humanitarian logic of evacuating the vulnerable from Libya and the RSD process based on a fear of persecution in their country of origin.²⁶⁸ As an effect, vulnerable people were evacuated from Libyan detention centres to Niger, where they then did not receive the refugee status. As a consequence, the UNHCR and Nigerian authorities struggled to find solutions for these people. In 2019, this concerned 100 'complex cases' with detailed credibility assessments and 20 'very complex' cases where people had reportedly been involved in transnational criminal networks. The files of the latter were sent to the Protection and National Security Section in the UNHCR headquarters for their assessment.²⁶⁹

Furthermore, the screening in Libya had important procedural constraints. UNHCR staff in Niger reported a limited application of the screening, which resulted in the evacuation of asylum seekers to Niger who would then have issues in receiving international protection. While this process was reportedly later improved in Libya, detainees in Libya also opted for changes in biodata to increase their evacuation chances. This complicated the credibility assessments in Niger.²⁷⁰ Markous (2019) gives an account of the arbitrariness in the selection process for the ETM inside Libyan detention facilities. The selection process was shaped by corruption, clientelism and Libyan authorities' control of the access to the evacuations. Screening interviews took place without privacy.²⁷¹

²⁶² Interview ETM committee member, 2019.

²⁶³ Interview UNHCR staff, 2019.

²⁶⁴ Scarpa (2021). UNHCR (2019b): Libya-Niger situation. Resettlement update #86. 12/11/2019. <https://data2.unhcr.org/en/documents/details/72298> (last accessed: 25/07/2022).

²⁶⁵ ASGI (2019).

²⁶⁶ UNHCR (2021b).

²⁶⁷ Lambert (2022a).

²⁶⁸ Lambert (2021).

²⁶⁹ Lambert (2022a).

²⁷⁰ Lambert (2022a).

²⁷¹ Markous (2019).

Importantly, the evacuation was limited to certain nationalities. The Libyan government restricted the ETM to an initial seven nationalities from East Africa and the Middle East, including Syrian, Eritrean, Sudanese, Somali, South Sudanese (from Darfur), Ethiopian Oromo and Palestinian citizens.²⁷² Later, Yemeni and Iraqi nationals were included, raising it to nine nationalities. The UNHCR could register other nationalities exceptionally.²⁷³ In late 2019, the UNHCR announced that after negotiations with the Libyan authorities, it could enlist all nationalities.²⁷⁴

In 2020, the UNHCR reported an important shift in its selection process. While it had evacuated people held in detention centres or from the Gathering and Departure Facility before, the UN Agency then evacuated people ‘mostly from urban settings with a history of being in a detention centre’ to avoid ‘negative coping mechanisms’ and to advocate for the end of detention.²⁷⁵ Earlier, the ETM had been criticised for motivating protection seekers to deliberately go into detention.²⁷⁶

It remains an open question to which degree the profiles of evacuees in Libya were influenced by the resettlement orientation of the ETM. UNHCR staff noted that certain profiles were easier to resettle than others and they needed to evacuate profiles to Niger eligible for resettlement to secure the ETM as a project. In 2019, ETM asylum seekers noted that then only very young people were evacuated from Libya.²⁷⁷

VII. Quality of the Recognition Process

The following section discusses the quality of the recognition process in Niger with respect to the four dimensions of accessibility, accuracy, efficiency and fairness. Issues in all of these four dimensions point to a limited quality of the RRR.

1. Accessibility

In a 2018 study on RSD in Niger, the UNHCR stated that there were ‘no admissibility procedures by law’, but a ‘risk of a discretionary approach in practice’.²⁷⁸ In the following, I detail some of these discretionary practices, such as registration delays linked to credibility concerns and an informal Safe Third Country practice, limited administrative capacities and political concerns over larger refugee groups. Geographical factors include a high centralisation of the asylum procedure and an increasing insecurity affecting large areas of the Nigerien territory. Border controls, complex referral mechanisms between state authorities, the IOM and the UNHCR, and the preference of potential protection seekers for informal protection over an asylum application, also suggest accessibility issues.

1.1 Registration Delays

During a participant observation in the Refugee Directorate in 2019, I noticed a discretionary approach in the street-level admission work for individual RSD. Individual asylum seekers were given delays of two to four weeks upon their first presentation in the Refugee Directorate before they could come back for their asylum application. A staff member explained this delayed admission with the suspicion of

²⁷² European Commission (2018), p. 16f.

²⁷³ UNHCR (2020e): UNHCR Position on the Designations of Libya as a Safe Third Country and as a Place of Safety for the Purpose of Disembarkation Following Rescue at Sea. September 2020 <https://www.refworld.org/docid/5f1edee24.html> (last accessed: 25/07/2022), p.3.

²⁷⁴ The New Humanitarian (2019): UN Tells Migrants to Leave Libya Transit Centre as \$6m Project Flounders. 10/12/2019. <https://www.thenewhumanitarian.org/investigation/2019/12/10/UN-migrants-Libya-transit-centre-project> (last accessed: 25/07/2022).

²⁷⁵ UNHCR (2020b).

²⁷⁶ Scarpa (2021), p.16.

²⁷⁷ Lambert (2022a).

²⁷⁸ UNHCR (2018).

asylum seekers applying for asylum in Niger to go to Europe.²⁷⁹ As Charrière and Fresia (2008) have suggested, this suspicion is a recurring perception in asylum bureaucracies in West African transit states and could negatively impact their recognition rates.²⁸⁰ In the case of the Nigerien bureaucracy, it also impacted access to the asylum procedure. For Malian applicants, the wait time in 2019 was six to eight weeks before their registration (see VI.1).

Especially in the handling of new, medium-sized refugee movements that fell under individual RSD, the authorities delayed the registration of the asylum seekers. This concerned the Sudanese asylum seekers in Agadez whose arrival in 2017-2018 stirred suspicions of them being (ex-)combatants, criminals and economic migrants among local and central state officials.²⁸¹ In May 2018, the state authorities pushed back 135 Sudanese asylum seekers to Madama, the border post before Libya.²⁸² Thereafter, the governor ordered to stop the arrival of further Sudanese from Libya, as the UNHCR confirmed. Only after long negotiations with the UNHCR, the Regional Refugee Directorate in Agadez registered the majority about a year after their arrival. In the case processing, the DRECM-R prioritised other nationalities and vulnerable cases over the majority of the Sudanese. Only 19 months after their arrival did the CNE adjudicate the first relevant number of Sudanese applications. In the meantime, many chose to re-migrate to Libya and Algeria and some opted for re-admission or voluntary return. In the case of the Sudanese, the motivations for delay were clearly political and security-related, with concerns over the applicants' civil character and over creating a pull factor from Libya to the former migration hub Agadez in light of the newly established asylum institutions there, which had been established through the UNHCR Mixed Migration program.²⁸³

For even longer periods, but less an object of public political discussions, individual asylum seekers have not been registered in Diffa. The UNHCR counted 2,114 registered asylum seekers in Diffa in July 2021.²⁸⁴ 90% of them were Chadian. They slowly started to arrive in 2017, but until January 2021 have not been registered by the DRECM-R in Diffa. The UNHCR therefore resorted to providing emergency assistance under its mandate. A UNHCR staff member suggested that the reason for the delay was mostly due to the high centralisation and low capacities of the asylum administration, potentially accompanied by a political concern over the long-term hosting of these refugees.²⁸⁵ Refugee Directorate staff in Diffa suggested to me that they were in fact registering individual asylum seekers.²⁸⁶

1.2 Informal Safe Third Country Practices

While I could not confirm the existence of a formal Safe Third Country rule, informal Safe Third Country practices seemed to apply. Individual asylum seekers from ECOWAS member states were sometimes scrutinised why they would need to apply for asylum despite the freedom of movement and residency rights they enjoyed following the ECOWAS protocols.²⁸⁷

Another challenge was the non-admission of asylum seekers with refugee status or an ongoing asylum procedure in another country. As Refugee Directorate and UNHCR officials explained, in case of a refugee status or an ongoing asylum procedure elsewhere the UNHCR first started a time-consuming procedure of contacting the authorities of the first country of asylum to investigate the reasons the person had left. In the meantime, applicants did not have documents to protect themselves in police controls.²⁸⁸

²⁷⁹ Lambert (2022a).

²⁸⁰ Charrière/Fresia (2008), p. 32.

²⁸¹ Lambert (2020).

²⁸² Irin News (2018): Niger Sends Sudanese Refugees Back to Libya. 10/05/2018. <https://www.irinnews.org/news/2018/05/10/niger-sends-sudanese-refugees-back-libya> (last accessed: 25/07/2022).

²⁸³ Lambert (2022a).

²⁸⁴ UNHCR (2021i).

²⁸⁵ Interview UNHCR staff member, 2021.

²⁸⁶ E-Mail exchange DRECM-R Diffa staff member, 2021.

²⁸⁷ Lambert (2022a).

²⁸⁸ Lambert (2022a).

1.3 Geographical Limitations

Some physical barriers also limit the accessibility. As a very centralised state, Niger has only recently introduced Regional Refugee Directorates in regional capitals. Only in Niamey and the regional capital Agadez, the offices are equipped with the needed eligibility, protection and registration staff. Individual asylum applications are thus limited to these two towns. In Diffa, the centralisation and limited means of the administration resulted in the non-registration of more than 2,000 asylum seekers by the state (see above).²⁸⁹ In 2018, the UNHCR recommended the decentralisation of registration and eligibility interviews.²⁹⁰ As Boyer (2019b) suggests, both the state authorities and the UNHCR are absent on the secondary migration routes that protection seekers have increasingly travelled since the start of Niger's anti-smuggling policy in 2015/2016.²⁹¹ As I observed in Niamey, the procedure required them to renew their asylum seeker attestation every three months and to actively 'follow the file' (*suivre le dossier*)²⁹² with regular courtesy visits in the Refugee Directorate in order to have their case progress. Moving to another town could stall the processing as in the case of an applicant who had originally applied for asylum in 2014, then moved to another town and was awaiting adjudication in 2019.²⁹³

With the increase of jihadist activities on Nigerien territory and in border zones, the emergency measures by the state and cross-border mass displacements to Niger have increased. Access to newly arrived refugees has become increasingly difficult for the UNHCR and the Refugee Directorate has to follow security protocols. In 2020, the registration of new Malian arrivals had to be partly stopped outside of the capital due to 'insecurity' and COVID-19 measures.²⁹⁴ Also, recently arrived Burkinabé were located in a border area 'where humanitarian access is complex'.²⁹⁵

1.4 Border Controls

Border controls could also restrain the access to asylum in Niger. In a visit to the country in 2018, the UN Special Rapporteur for the Human Rights of Migrants found that the state's migration control measures were 'predominantly repressive, at the expense of the human rights protection of migrants, and [...] in violation of the State's international and regional obligations, such as respect for the principles of non-refoulement and of freedom of movement in the ECOWAS region'.²⁹⁶ Boyer (2019a) reports increasing pushbacks of potential protection seekers at Niger's Southern borders.²⁹⁷ The Global Detention Project has reported more frequent cases of migrant detention as a result of the anti-smuggling policies in Niger.²⁹⁸

1.5 Referrals from IOM

In addition to these constraints, the referral of asylum seekers to the Refugee Directorate could pose problems. The UNHCR study on RSD criticised the 'complex processing and referral mechanisms' between the government, UNHCR, and partners both on a central and regional level.²⁹⁹

The MoU on Mixed Migration from 2017 tasked IOM with referring potential asylum seekers to the Refugee Directorate and UNHCR (see V.). A share of asylum seekers was identified in the transit centres of IOM which focused on returning migrants to their countries of origin. While IOM reportedly

²⁸⁹ Interview UNHCR staff member, 2021.

²⁹⁰ UNHCR (2018).

²⁹¹ Boyer (2019b), p.134.

²⁹² Cf. Bierschenk, Thomas (2017): *Who are the Police in Africa?* In: Jan Beek/Mirco Göpfert/Olly Owen et al. (eds.): *Police in Africa. The Street Level View*. London, Hurst & Company, 103–120.

²⁹³ Lambert (2022a).

²⁹⁴ UNHCR (2020f): *Update Tillabéry and Tahoua Regions*. June 2020. <https://reporting.unhcr.org/sites/default/files/UNHCR%20Niger%20-%20Flash%20Update%20Tillabery%20and%20Tahoua%20-%20June%202020.pdf> (last accessed: 25/07/2022).

²⁹⁵ UNHCR (2020f).

²⁹⁶ UNHRC (2019), p. 6.

²⁹⁷ Boyer (2019a), p. 175.

²⁹⁸ Global Detention Project (2019), p. 6.

²⁹⁹ UNHCR (2018).

only conducted a limited profiling of asylum seekers in its transit centres at the beginning and did not grant UNHCR staff access, these issues were improved in 2018-2019. Nevertheless, the referral letter by IOM to UNHCR and the Refugee Directorate caused delays in the processing, as the Refugee Directorate required this letter prior to registration.³⁰⁰ As a consequence, the return imperative of IOM and the referral mechanisms between authorities potentially provided challenges for protection seekers to access RSD processes.

Furthermore, the referral from IOM was a precondition for receiving assistance during the asylum procedure. Applicants were only eligible for housing and food assistance provided by UNHCR if they were referred by IOM to UNHCR, unless they were cases of extraordinary vulnerability. This referral was sometimes difficult to achieve. Potential asylum seekers with national identity documents spoke of pressure by IOM to quickly agree to voluntary return to their countries of origin. In July 2019, the IOM transit centres in Niamey were full and IOM did not accept further arrivals, but then also did not refer an asylum seeker to UNHCR.³⁰¹ Consequently, if a referral from IOM was not possible, potential asylum seekers in Mixed Migration may also refrain from applying for asylum because they then risked losing IOM's assistance, or they remained without assistance and thus did not see an advantage in asking for asylum in Niger.

1.6 Informal Protection

Another reason for potential protection seekers refraining from applying for asylum is the relative openness of residency rights. Compared to Western migration policies, migrants can regularise their stay as long as they are financially independent. This especially concerns ECOWAS citizens³⁰² and citizens with short-term visa exemptions from Morocco, Tunisia, Chad and Mauritania.³⁰³ Due to the limited policing of identity documents, a diaspora organisation reported that 80% of its members resided without documents in Niger. In contrast, asylum was considered a complicated and long-lasting procedure. Its members who had taken part in anti-government demonstrations found informal protection among extended family members.³⁰⁴ Additionally, as Charrière and Fresia have suggested for West Africa, refugee documents offer a limited reach and protection.³⁰⁵ They also mean limited assistance (see VIII.).

On a political level, informal protection was offered by the government to members of the former Gaddafi government in Libya, a close ally of Niger. The Nigerien government first protected them against mounting international pressure, but in 2014 extradited some of them to Libya, presumably without due process.³⁰⁶ Saadi Gaddafi was said to have been subsequently tortured in a Libyan prison.³⁰⁷ A UNHCR employee confirmed that no formal asylum application was registered for him in Niger and that his protection was a 'political decision' by the state.³⁰⁸

To sum up, the multiple issues mentioned attest a limited accessibility of the RRR in Niger. While some measures have been improved with the identification and referral of asylum seekers and the beginning

³⁰⁰ Lambert (2022a).

³⁰¹ Lambert (2022a).

³⁰² Ebobrah (2014).

³⁰³ Ministère des Affaires Étrangères, de la Coopération, de l'Intégration Africaine et des Nigériens à l'Extérieur (2018): Liste des pays avec lesquels le Niger a signé un accord de suppression de visa d'entrée. Niamey, 24/12/2018.

³⁰⁴ Interview diaspora organisation, 2019.

³⁰⁵ Charrière/Fresia (2008), p. 31.

³⁰⁶ Le Touzet, Jean-Louis (2014): Saadi Kadhafi, des boîtes de Niamey aux geôles de Tripoli. Libération, 06/03/2014. https://www.liberation.fr/planete/2014/03/06/saadi-kadhafi-des-boites-de-niamey-aux-geoles-de-tripoli_984956 (last accessed: 25/07/2022). Amanpour (2014): Gadhafi Son Improperly Extradited to Libya, Former Lawyer Says. 06/03/2014. <http://amanpour.blogs.cnn.com/2014/03/06/gadhafi-son-improperly-extradited-to-libya-former-lawyer-says/> (last accessed: 25/07/2022).

³⁰⁷ Asharq Al-awsat (2019): Saadi Gaddafi's Family Plans Int'l Lawsuit to Release him. 03/08/2019. <https://english.aawsat.com/home/article/1841706/saadi-gaddafi%e2%80%99s-family-plans-int%e2%80%99l-lawsuit-release-him> (last accessed: 25/07/2022).

³⁰⁸ Interview UNHCR staff member, 2019.

decentralisation of the procedure, specific groups like the Sudanese in Agadez and protection seekers in Diffa have had difficulties in accessing the asylum procedure. New developments like the growing insecurity and border control measures have contributed to preventing access.

2. Accuracy

In its 2018 study on RSD, UNHCR saw insufficient ‘quality/standards of RSD (poor interviews, no legal argumentation, decisions not motivated etc)’. It explained these issues with the ‘high turnover of members of [the] eligibility bodies’, CNE and CRG, and a ‘lack of expertise’. To improve the quality, UNHCR proposed trainings for the eligibility staff as well as CNE and CRG members, longer mandates for the CNE and CRG members, quality monitoring, and the development of decision templates ‘to ensure appropriate/logical assessment and reasoning’.³⁰⁹

In 2021, a UNHCR staff member also linked a sub-standard accuracy of RSD to CNE and CRG members’ diverse professional backgrounds and their often-lacking legal training background. Another UNHCR staff member noted a lack of argumentation by CNE members during the deliberations. While the CNE had importantly increased its work rhythm in 2018, the CRG held its first session after some years of break in 2019. Its members had thus received less on-the-job training.³¹⁰ Relating to these accuracy issues and interlinked questions of efficiency (see VII.3.), an EU funding document for the ETM even claimed that UNHCR ‘[n]ot[ed] a lack of a functioning asylum system in Niger’.³¹¹ With the ETM, the accuracy of the RSD in Niger had become a concern to the EU and UNHCR in order to ensure resettlement.³¹²

For most nationalities, application numbers are too small to assess the accuracy in the decision-making. For *prima facie* refugees from Mali and Nigeria, the lack of recognition statistics precludes an assessment of the accuracy in the decision-making. However, a short participant observation of some *prima facie* interviews with Malian applicants hints at low recognition rates and an inaccurate establishment of facts (see VI.1). In its evaluation of RSD in Niger, UNHCR also suggested to ‘further regulate/record *prima facie* procedures’.³¹³

In the following, I detail five aspects limiting the accuracy of decision-making: the lacking legal reasoning in decision letters, informal Safe Third Country practices, especially for Sudanese applicants with a prior *prima facie* refugee status in Chad, the assessment of LGBTIQ* applications, the morality check, and country-of-origin information.

2.1 Decision Letters

A major issue for the UNHCR protection unit was the lacking legal reasoning in the decision letters of the first and second instance. The UNHCR study on strengthening the RSD considered the negative decisions ‘poorly motivated’. This resonated with UNHCR protection staff. While this might also present issues in cases of positive decisions by the state when the UNHCR proposed a rejection, the lack of reasoning was especially serious for negative decisions. According to UNHCR staff, the decision letters were ‘unreasoned decisions’ which hindered applicants in criticising the decision based on arguments and which could also easily be overrun during the appeal.³¹⁴

While these decision letters were generally not accessible to the researcher, I collected a few of them with individual asylum seekers inside and outside the ETM. The decision letters generally first cited the relevant legal texts over approximately a page and then mentioned the identity data of the applicant.

³⁰⁹ UNHCR (2018).

³¹⁰ Lambert (2022a).

³¹¹ European Commission (2018), p.4.

³¹² Lambert (2022a).

³¹³ UNHCR (2018).

³¹⁴ Lambert (2022a).

In the case of a positive decision, these letters only stated that the applicant was recognised as a refugee without giving a reason why.³¹⁵

In the case of a rejection, a very short claim was provided. For example, a negative first-instance decision letter from 2018 stated the following reason: ‘Account not credible. The applicant does not meet the criteria for inclusion in the 1951 Geneva Convention Relating to the Status of Refugees, allowing him to benefit from international protection. He can safely avail himself of the protection of his country of origin.’³¹⁶ A second negative first-instance decision letter from 2018 stated a similar reason: ‘The applicant’s story is not credible and inconsistent; he can nevertheless avail himself of the protection of the authorities in his country of origin.’³¹⁷ An earlier negative first-instance decision from 2015 hinted to the lack of credibility in light of an assumption of being an ‘economic migrant’, a stereotyping that Charrière and Fresia (2008) see as recurring in West African RSD systems³¹⁸: ‘In view of his professional qualification [...] the [applicant] can return to his country of origin to integrate. The applicant is rather an economic migrant.’³¹⁹ After these short reasonings, the decision letters informed about the option to appeal within 60 days.

With respect to the second instance negative decisions, the ministerial decree for the administrative review foresees that the ‘opinion must be duly reasoned’. Although a bit longer than the first instance, these decisions did not detail reasons for rejection. For example, a CRG member quoted a decision letter as follows to me:

‘After examining his application, it appears that the applicant left his country of origin as a result of persecution and abuse linked to the socio-political situation arising from the post-electoral crisis of [year X]. The committee considers that the context that provoked the departure of the asylum seeker from his country of origin has changed positively and that the person concerned has not presented any new element of fear of persecution targeted at his person. The committee also considers that the person concerned is a holder of a [...] diploma and can, if he wishes, make use of these skills in Niger by complying with the legislation in force as an economic migrant.’³²⁰

To remedy these omissions, the UNHCR study on RSD recommended the development of a decision template both for individual RSD and *prima facie* procedures.³²¹ The UNHCR also provided argumentations for the negative decisions in the ETM in 2018/2019, because it considered the Refugee Directorate to lack capacities and experience. However, the Refugee Directorate maintained its original format and only annexed these more encompassing decision letters to its shorter decision letters.³²²

Compared to these decision letters by the state, two UNHCR rejection letters from 2018 were similarly unclear in their legal argumentation, since they did not provide reasons for why protection in the first country of asylum was accessible against the claim of the asylum seekers: ‘You are not considered to need refugee protection because you already have a valid refugee status in [country X], your country of first asylum. The authorities in your country of first asylum are able to provide you with effective protection.’³²³

2.2 Informal Safe Third Country Practice

A particular concern for the UNHCR in early 2021 was the rejection of Sudanese asylum seekers, mostly from Darfur, with an active *prima facie* status in Chad. Their applications were rejected by the

³¹⁵ First instance decision letter by Refugee Directorate, 2018, on file with the author.

³¹⁶ First instance decision letter by Refugee Directorate, 2018, on file with the author.

³¹⁷ First instance decision letter by Refugee Directorate, 2018, on file with the author.

³¹⁸ Charrière/Fresia (2008), p. 32.

³¹⁹ First instance decision letter by Refugee Directorate, 2015, on file with the author.

³²⁰ Interview CRG member, 2019.

³²¹ UNHCR (2018).

³²² Lambert (2022a).

³²³ First instance decision letters by UNHCR, 2018, on file with the author.

CRG in 2020.³²⁴ In its 2020 session, the CRG recognized only one out of 56 cases (see table X.5.g). Most of the rejected applicants were Sudanese.³²⁵ These rejections of Sudanese with an active refugee status also concerned unaccompanied minors. In contrast to the Nigerien authorities, the UNHCR stressed that the fear of return had to prevail in the decision. However, a UNHCR staff was sure in 2021 that the state ‘will not change with respect to this position’. If the UNHCR identified a protection risk following these rejections, the agency could ‘in exceptional cases’ proceed to a recognition under its mandate to allow for resettlement or support humanitarian evacuations to a third country.³²⁶

In a few cases, I observed a rejection of asylum applications with an internal flight alternative in the country of origin. For example, a first-instance decision letter for an applicant from Northern Nigeria explained the rejection with the applicant’s initial displacement to a large city in Northern Nigeria, which was deemed safe by the CNE, and thus the available protection in the country of origin.³²⁷

2.3 LGBTIQ* Applicants

Niger’s legal framework does not penalise homosexuality apart from relations with minors,³²⁸ but UNHCR staff saw members of the CNE as ‘influenced by a cultural criminalisation of homosexuality’, linked to the strong role of Islam in the country. According to a UNHCR staff member, this led to some negative decisions in the CNE. The UNHCR could then consider refugee recognition under its mandate in order to submit these cases for resettlement. Also, UNHCR staff reported that asylum seekers could feel stigmatised during the eligibility interviews and during the interviews for the morality check conducted by the police.³²⁹

2.4 Morality Check

The morality check conducted by the national police (see VI.3) does not only delay the case processing. It also poses challenges to the accuracy of assessments. According to a UNHCR employee, moral and customary assessments enter the asylum procedure, which might lead to negative decisions.³³⁰ The UNHCR lobbied for the abandonment of the procedure.³³¹ Nevertheless, CNE members agreed that the morality check was rarely negative and in case of a negative morality check, members tried to argue for a generalised insecurity in the country of origin in order to sideline the morality check.³³²

2.5 Country-of-origin Information

The Nigerien Refugee Directorate has so far not established a service for organizing and updating country-of-origin information (COI). It mostly depended on the UNHCR for these kinds of information. A CRG member saw the lack of up-to-date COI as a reason for ‘subjective’ decisions in the CRG.³³³

3. Efficiency

Since its establishment, Niger’s RRR has seen limited efficiency. Despite the ongoing capacity-building, the backlogs have increased over time, which is especially due to the increased caseload since 2017 with the ETM and Mixed Migration projects.

³²⁴ Lambert (2022a).

³²⁵ Procès-Verbal summary 2020, on file with the author.

³²⁶ Lambert (2022a).

³²⁷ Negative decision letter seen by the author, 2019.

³²⁸ Loi N° 2003-025 du 13 Juin 2003 modifiant la loi N° 61-27 du 15 juillet 1961, portant institution du Code Pénal, art. 282.

³²⁹ Lambert (2022a).

³³⁰ Lambert (2022a).

³³¹ UNHCR (2018).

³³² Lambert (2019).

³³³ Interview CRG member, 2019.

In July 2021, about 94.4% of 264,517 foreign-national persons of concern (excluding IDPs and returnees) had *prima facie* status. In contrast, only 3,271 were individual asylum seekers, 1,438 individually recognised refugees, and 11,426 had so far an unclear status, almost exclusively from Burkina Faso.³³⁴ The overall handling of refugees under *prima facie* regulations can be considered adequate for the limited institutional capacities. In 2021, a UNHCR official stated that the Refugee Directorate ‘does not dispose of the adequate resources [...] adapted to individual RSD work’.³³⁵

In January 2021, the UNHCR estimated the waiting time for individual RSD after the asylum application to be 18-24 months for the first-instance decision and 30-36 months for the second-instance decision. This was an ongoing problem for the UNHCR.³³⁶ Already in 2017, the delay for the first-instance decision was estimated to be 19 months.³³⁷ In its 2018 study on the RSD procedure, the UNHCR spoke of a ‘long waiting period and [a] gradually accumulating backlog’.³³⁸ It was reduced in the meantime, but developments like COVID-19, the national elections in 2020 and the state’s organisation of the African Union summit in 2019 stalled the processing.³³⁹ Another reason was the ETM caseload as I detail below.

The UNHCR saw protection risks for asylum seekers linked to the waiting period. According to a Refugee Directorate staff member, changes in the country-of-origin situation could also challenge the foundation of the application. The UNHCR calculated in 2015 that about half of asylum seekers abandoned the asylum procedure.³⁴⁰ A then UNHCR staff member explained it with the long wait and with the argument that some transit migrants filed an asylum application ‘out of opportunity’ and then continued their migration. ‘Non-functioning asylum systems deter’, the staff member reasoned. Some asylum seekers with cases in the first and second instance I met opted for voluntary return to their countries of origin or onward migration after waiting without response. Nevertheless, a UNHCR staff member considered the slowness of the administration to be a generally known reality in Niger and a structural issue that was difficult to change. Some state agents agreed in the diagnosis.³⁴¹

The low number of first- and second-instance meetings was an important reason for the delays. The annual project negotiations between the state and the UNHCR for 2018 and 2019 foresaw three to five CNE sessions annually between 2015-2017 and since 2018 twelve CNE sessions per year. The CNE held zero sessions in 2016, one in 2017, eight in 2018 and three sessions each in 2019 and 2020. For the CRG, the budget foresaw three to four sessions annually and six since 2019. The CRG did not hold a session in 2016-2018 and held one session each in 2019 and 2020. The CRG adjudicated eleven cases in 2019 and 56 in 2020. In October 2020, a member of the CRG counted a backlog of 117 appeal files waiting for adjudication plus about 200 additional (presumably mostly ETM) appeal files in the circuit between the UNHCR and the Refugee Directorate. State and UNHCR agents agreed that a reason for the difficulty of organizing these sessions was the senior position of the committee members in their organisations, which made it difficult to find time for this task.³⁴²

Apart from the availability of state bureaucrats, however, the ETM, initiated by the UNHCR and mostly European states, effectively blocked the case processing in the CNE and its Refugee Directorate in 2018. The introduction of an evacuation program with a large caseload and high priority overwhelmed the then limited individual case-processing capacity and contributed to the backlog. A solution to this was the contentious shift of RSD for ETM cases from the state to UNHCR mandate RSD in 2018 (see

³³⁴ Author calculations based on UNHCR (2021f): UNHCR Niger Population of Concern 31 July 2021. <https://reporting.unhcr.org/sites/default/files/Niger-Map%20Population%20of%20Concern-July%202021.pdf> (last accessed: 25/07/2022).

³³⁵ Interview UNHCR staff member, 2021.

³³⁶ Interview UNHCR staff member, 2021.

³³⁷ UNHCR (2017a).

³³⁸ UNHCR (2018).

³³⁹ Interview UNHCR staff member, 2021. Participant observation Refugee Directorate, 2019.

³⁴⁰ UNHCR (2015b): Asylum Seekers, Refugees and Migration in Niger. May 2015. <https://data2.unhcr.org/en/documents/details/48294> (last accessed: 25/07/2022).

³⁴¹ Interview UNHCR staff member, 2019. Interviews state officials, 2019.

³⁴² Lambert (2022a).

VI.3). In 2019, the persisting backlog in the CRG for the ETM files caused ‘a lot of tensions’ for UNHCR. Nevertheless, UNHCR staff also spoke of backlogs in the RSD processing of ETM cases in the UN Refugee Agency in 2018 and 2019.³⁴³

In addition to the actual decision-making, delays also concerned the every-day street-level work of the Refugee Directorate. Its limited staff capacity and high staff turnover slowed down the office work.³⁴⁴ In several cases I observed, a time gap of several months occurred between the CNE decision-making and the written ministerial decision handed out to the asylum seeker. Also, the morality check at the police could slow down the procedure for several months. For Malian *prima facie* applicants, obtaining a date for a screening interview prior to their registration took six to eight weeks in 2019 (see VI.1). For Nigerian applicants for temporary protection, the UNHCR reported a ‘substantial backlog’ for their registration and documentation in 2015, which constituted a ‘potential protection risk, particularly in a tense security context’.³⁴⁵ With respect to documentation, individual asylum seekers experienced delays in the renewal of their three-month asylum seeker attestations by the Refugee Directorate. The expired documents could lead to issues in police controls.³⁴⁶

Following my observations while doing a participant observation in the Refugee Directorate, these delays in the eligibility, registration and documentation work were mostly due to the limited (trained) staff capacity of the office, a lacking (IT) office management system and strong hierarchies in the administration that required often-absent senior bureaucrats to sign documents and distribute tasks.³⁴⁷ The UNHCR also noted a ‘complex processing and referral mechanism’ between different state levels and partners and a ‘lack of preparedness, planning, flexibility in case of increase in the context of mixed flows’.³⁴⁸

One proposal by state agents to reduce the length of the asylum procedure was to include delays for the administration in the legal texts. Another one was to detach the Refugee Directorate from the Ministry of Interior and turn it into an independent office in order to shorten administrative circuits.³⁴⁹ The UNHCR also proposed a review of ‘human resources and structural issues (insufficient CNE staff, poor working conditions, no retention policy)’.³⁵⁰

4. Fairness

Procedural fairness norms so far do not appear to be clearly defined and the practical implementation suggests a limited due process. Rather than a particular trait of the asylum institutions, these limits to procedural fairness apply to wide areas of the Nigerien state. Research on bureaucracies in Niger and in West Africa has often stressed the importance of social norms and widespread, informal practices which might be in conflict with the official norms.³⁵¹ In no way a particularity of African states, these informal practices are more concealed in states in the Global North.³⁵² Nevertheless, states like Niger have a more limited capacity to enforce their official norms.³⁵³ In a study on the judiciary in Niger, for instance, Tidjani Alou found a congestion of legal institutions, the importance of norm plurality,

³⁴³ Lambert (2022a).

³⁴⁴ UNHCR (2018).

³⁴⁵ UNHCR (2015a).

³⁴⁶ Participant observation Refugee Directorate, 2019.

³⁴⁷ Lambert (2022a).

³⁴⁸ UNHCR (2018).

³⁴⁹ Lambert (2022a).

³⁵⁰ UNHCR (2018).

³⁵¹ Bierschenk, Thomas/Olivier de Sardan, Jean-Pierre (eds.) (2014c): States at Work. Dynamics of African Bureaucracies. Boston, Brill. Herdt, Tom de/Olivier de Sardan, Jean-Pierre (eds.) (2015): Real Governance and Practical Norms in Sub-Saharan Africa. The Game of Rules. London, Routledge.

³⁵² Bierschenk, Thomas/Olivier de Sardan, Jean-Pierre (2014b), p. 17.

³⁵³ Bierschenk, Thomas/Olivier de Sardan, Jean-Pierre (1997): Local Powers and a Distant State in Rural Central African Republic. The Journal of Modern African Studies 35 (3), 441–468.

informality and corruption as well as a low legal coverage.³⁵⁴ More generally, Freedom House currently classifies Niger as ‘partly free’ with a limited rule of law and restricted civil liberties.³⁵⁵

On the level of legal norms, fairness in the RRR can be considered limited. The right to a hearing is not included in the refugee law, although generally speaking asylum seekers are interviewed. The right to a written transcript is neither foreseen by the law nor practically enforced. The Refugee Directorate does not grant access to asylum files to applicants. While the right to translation is not legally anchored, the UNHCR can provide translators.³⁵⁶

A further illustration of the limited legal fairness norms is the institutional structure of review. Due to the overlap of representatives’ institutional affiliations, the CRG is institutionally not independent from the first instance eligibility body CNE. The CRG consists of the same core state departments like the CNE (Interior Ministry, Ministry of Justice, Ministry of Foreign Affairs). As senior officials, the CRG members have only a higher level of responsibility in their home institutions than the CNE members. Consequently, UNHCR saw a limited independence of this administrative review body from the first-instance level.³⁵⁷

For the subsequent judicial review (*recours pour excès de pouvoir*), the role of the high administrative court *Conseil d’État* is to check if the law has been applied in the administrative decisions under scrutiny and otherwise overturn them.³⁵⁸ While the CRG can revise the content of the CNE decisions and establish new facts, the role of the high court is thus limited to assessing if the law has been applied and overturn an administrative decision.³⁵⁹ In this sense, only the administrative bodies CNE and CRG, which were institutionally not independent from each other, assess the facts underlying an asylum application. Further, the actual independence of the high court was debated among magistrates, because the ruling parties often nominated their members for the positions of advisers and the court’s president.³⁶⁰

Furthermore, asylum seekers had to be represented by an advocate in the high court.³⁶¹ This required financial means and thus, according to a UNHCR staff member, posed access issues to judicial review.³⁶² In a 2020 report, the UNHCR considered the general legal aid service in Niger (*Association nationale de l’assistance juridique et judiciaire*, ANAJJ) an option for legal representation of refugees in cases of detention, but saw ‘significant budgetary constraints’.³⁶³

Apart from legal representation, the lack of independent legal counselling for asylum seekers was a general impediment for the preparation of asylum applications. This was also criticised in the UNHCR study on RSD in Niger.³⁶⁴ The only institution applicants could *de facto* resort to was the UNHCR. Applicants often showed a limited knowledge of refugee law and were usually asked by the registration and eligibility staff to fill in the registration and appeal form by themselves. Among illiterates or non-French speakers, many relied on services by a third person to fill in these documents.³⁶⁵ An early attempt by the UNHCR to establish independent free-of-charge legal aid failed when the tasked lawyers started

³⁵⁴ Tidjani Alou, Mahaman (2001): La justice au plus offrant. Les infortunes du système judiciaire en Afrique de l’Ouest (autour du cas du Niger). *Politique africaine* 83 (3), 59–78.

³⁵⁵ Freedom House (2020): Freedom in the World. Niger 2020. <https://freedomhouse.org/country/niger/freedom-world/2020> (last accessed: 25/07/2022).

³⁵⁶ Loi N°97-016. Participant observation Refugee Directorate, 2019.

³⁵⁷ Interview UNHCR staff member, 2019.

³⁵⁸ Loi organique N°2013-02, art. 104.

³⁵⁹ Interview UNHCR staff member, 2018.

³⁶⁰ Interview magistrate, 2021.

³⁶¹ Interview UNHCR staff member, 2021.

³⁶² Interview UNHCR staff member, 2018.

³⁶³ UNHCR (2020g): Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights’ Compilation Report Universal Periodic Review: 3rd Cycle, 38th Session. Niger. <https://www.refworld.org/docid/607604524.html> (last accessed: 25/07/2022).

³⁶⁴ UNHCR (2018).

³⁶⁵ Participant observation Refugee Directorate, 2019.

to charge applicants. In January 2021, the UNHCR prepared a project proposal for a legal assistance clinic and had a project call out for wider protection-related activities.³⁶⁶

VIII. Quality of Protection

The Nigerien refugee law guarantees the same treatment of refugees and nationals with respect to the access to education, health, housing, the security of the person and enjoyment of property, freedom of residence and of movement.³⁶⁷ Only their access to work is defined as subordinate to nationals. Nevertheless, many rights are in practice subject to implementation challenges. This concerns especially the protection of the security and free movement of persons, of residence and from *refoulement*.

1. The Right to the Security of the Person

First, the security of the person is increasingly challenged in a volatile security context. Related to the increasing violence and insecurity in Niger, Nigerian and Malian Refugees were among the victims of serious protection incidents in the high-risk areas in Diffa, Tillabéry and Tahoua. In Diffa, protection incidents concerned terrorist attacks, kidnappings as well as sexual and gender-based violence.³⁶⁸ In Tillabéry and Tahoua, terrorist attacks as well as ‘extorsions, targeted killings, cattle theft, shop looting’ and threats to leave villages were documented.³⁶⁹ For these reasons, the UNHCR considered the hosting of refugees close to the border in Tillabéry and Diffa as a protection risk. It could lead to attacks on refugees, but also to their potential ‘infiltration and stigmatisation’³⁷⁰ and ‘forced recruitment’.³⁷¹

2. The Principle of Non-refoulement

As in most West African countries,³⁷² the UNHCR assessed the risk of *refoulement* as rather small.³⁷³ Although the border police *Direction de la Surveillance du Territoire* has reported limited trainings in asylum matters, the land borders are comparatively porous and stretched and movement inside the country without identity documents is still possible.³⁷⁴ Entry for asylum seekers and other migrants is often structured by informal police practices of racketeering, arbitrary detention and violence.³⁷⁵ Officially, ECOWAS citizens do not need a visa, but only valid identity documents and a vaccination card.³⁷⁶ They have 90 days to regularise their stay. The border police generally allow migrants travelling south from Libya to transit Niger with a permit (*sauf-conduit*). Subject to push-backs in 2018/2019 were Sudanese asylum seekers fleeing the civil war in Libya (see VII.). Additionally, in the regions Diffa, Tillabéry and Tahoua with recurring jihadist and counter-terrorist activities, asylum seekers suspected of an affiliation with jihadist groups might be pushed back. In 2019, a border monitoring project implemented by the NGO CIAUD was started in order to improve the access for people in need of

³⁶⁶ Interview UNHCR staff member, 2021.

³⁶⁷ Loi N°97-016, art. 10.

³⁶⁸ UNHCR (2020h): Factsheet Diffa Region Niger. December 2020. <https://data2.unhcr.org/en/documents/details/83994> (last accessed: 25/07/2022).

³⁶⁹ UNHCR (2020f).

³⁷⁰ Interview UNHCR staff member, 2019.

³⁷¹ UNHCR (2015a).

³⁷² Charrière/Fresia (2008), p. 30.

³⁷³ Interview UNHCR staff member, 2019.

³⁷⁴ Lambert (2022a).

³⁷⁵ Mixed Migration Centre (2020). Boyer (2019b), p. 5. Boyer et al. (2020), p. 112.

³⁷⁶ Boyer et al. (2020), p. 111.

international protection at the borders.³⁷⁷ Some cases of extradition to Chad,³⁷⁸ Libya (see VII.1) and Ivory Coast³⁷⁹ without due legal process have been reported in the past.

3. The Security of Residence

The security of residence was not generally considered an issue by recognised refugees. Upon recognition, refugees receive a refugee ID free of charge. Sometimes, these cards were not renewed prior to their expiration.³⁸⁰ Given the low number of refugees with documentation especially from Nigeria and Mali, the UNHCR saw a significant risk of statelessness.³⁸¹

Refugees who fell under cessation regulations felt pressure to apply for Nigerien citizenship, which was experienced as an arduous process that was not responded with a substantiated decision and could require years of waiting.³⁸² Applicants are legally required to be in Niger for 10 years³⁸³ and obtain a good result in the morality check (see VI.3).³⁸⁴ The Nigerien presidency takes the final decision and is not obliged to respond with a (substantiated) decision. There is also no right to appeal against the decision.³⁸⁵ The naturalisation file requires a number of documents that could be difficult to obtain for refugees: a written request, birth certificates for the applicant including their children, a nationality certificate, an up-to-date file from the judicial police (*casier judiciaire*) including for children over 13 years of age, a residency certificate, a certificate of military position, an attestation of national civil service and a health certificate.³⁸⁶ In a 2015 report, UNHCR stressed the discretion of the Nigerien president, the ‘unreasonably long’ processing time of ‘more than a year’, and ‘uncertain’ results.³⁸⁷

In contrast to refugee recognition regimes in the Global North, rejected asylum seekers can apply for a residence permit. However, the procedure requires a proof of income and valid identity pieces³⁸⁸ and is relatively expensive. For example, in 2019 a residence permit cost 50,000 CFA (75€) for applicants from outside the ECOWAS compared to 10,000 CFA (15€) for ECOWAS citizens. Additionally, a number of costly documents have to be obtained: a residence certificate, a file from the judicial police and an identity card. Therefore, a diaspora organisation estimated the total price even for ECOWAS citizens to be 40,000 CFA (61€). As a result, many migrants did not possess legal documents.³⁸⁹ As in other West African countries, although regularisation is legally possible, a residence permit is practically ‘almost impossible’ to get for refugees.³⁹⁰

³⁷⁷ CIAUD (2019): Monitoring des frontières – Niger. 09/03/2019. <https://www.ciaud.ca/projets/215-monitoring-des-frontieres-niger> (last accessed: 25/07/2022).

³⁷⁸ Tubiana et al. (2018), p. 15. RFI (2019): Tchad: prison à vie pour deux responsables du groupe rebelle CCMSR. <http://www.rfi.fr/afrique/20190606-tchad-prison-vie-deux-responsables-groupe-rebelle-ccmsr-boumaye-yacoub> (last accessed: 25/07/2022).

³⁷⁹ Abidjan.net (2019): Un militaire pro-Gbagbo arrêté au Niger et extradé en Côte d’Ivoire (sources concordantes). 23/07/2013. <https://news.abidjan.net/articles/466140/un-militaire-pro-gbagbo-arrete-au-niger-et-extrade-en-cote-divoire-sources-concordantes> (last accessed: 25/07/2022).

³⁸⁰ Interview refugee committee member, 2019.

³⁸¹ OHCHR (2021): Compilation on the Niger. Report of the Office of the United Nations High Commissioner for Human Rights. A/HRC/WG.6/38/NER/2. <https://undocs.org/en/A/HRC/WG.6/38/NER/2> (last accessed: 25/07/2022).

³⁸² Interviews refugees, 2019.

³⁸³ Ordonnance n° 84-33, art. 25.

³⁸⁴ Ordonnance n° 84-33, art. 26.

³⁸⁵ Ordonnance n° 84-33, art. 24.

³⁸⁶ Pièces constitutives d’un dossier de demande de naturalisation, Direction de la Surveillance du Territoire, 11/2018.

³⁸⁷ UNHCR (2015a).

³⁸⁸ Décret N° 87-76/PCMS/MI/MAE/C du 18 juin 1987 réglementant les conditions d’entrée et de séjour des étrangers au Niger, art. 12-19.

³⁸⁹ Interview diaspora organisation, 2019.

³⁹⁰ Charrière/Fresia (2008), p. 28.

4. Right to the Free Movement of Persons

Freedom of movement inside Niger was in comparison to other states possible. Only the Sudanese asylum seekers in Agadez and ETM asylum seekers and refugees were mostly hosted in camps and had limited permits and opportunities to leave the camps.³⁹¹ Apart from them, Niger and UNHCR mostly pursued an out-of-camp policy and favoured urbanisation, refugee hosting villages and a hosting area for (semi-)nomadic Malian refugees, which was closed in June 2021 due to security issues.³⁹² These policies supported free mobility.³⁹³ Nevertheless, frequent checkpoints, motor-cycle bans and curfews linked to the state of emergency complicated mobility for example in Diffa.³⁹⁴ Also, jihadist attacks, the state of emergency, terrorist suspicion towards Malian refugees and the banning of motorcycles posed challenges to mobility in the West of the country for refugees, IDPs and humanitarians.³⁹⁵ Urban asylum seekers and refugees could be controlled in nightly police patrols to which they had to present their papers. At least in 2018 and 2019, asylum seekers in Agadez did not obtain an asylum seeker attestation, hindering their freedom of movement in the country.³⁹⁶

For the freedom of movement outside the country, obtaining the necessary documents was sometimes complicated. Regional mobility is an important livelihood strategy for refugees, migrants and citizens.³⁹⁷ To leave the country for another ECOWAS member state, asylum seekers and recognised refugees needed to present a permit at the border. They had to apply for it in the Refugee Directorate with a letter stating the reason and length of their journey. An asylum seeker I interviewed did not receive it and was subsequently hindered while entering a neighbouring country.³⁹⁸ For travel outside of the ECOWAS, recognised refugees needed a convention travel document provided by the UNHCR. As in other West African countries,³⁹⁹ several refugees described the process of obtaining it as difficult and lengthy. It required a formal request to the Refugee Directorate which was then passed on to UNHCR.⁴⁰⁰

5. Right to Work and Livelihood Options

With regards to the right to work, refugees have subordinate access to the labour market compared to nationals. They have the same rights as those ‘nationals from the country with the most advantageous establishment agreement with Niger’, but need to obtain a work authorisation beforehand.⁴⁰¹ To recruit foreigners, employers generally have to prove that no Nigerien citizen is available for this post.⁴⁰² For this reason and due to the large informal sector, many refugees remain in the informal economy where remuneration, labour rights and protection are low.⁴⁰³ Other refugees with particular skills and education take to self-employment. To create a business, they have to seek a work authorisation for self-

³⁹¹ Lambert (2022a).

³⁹² UNHCR (2021j): Sahel Situation Factsheet. July 2021. https://reporting.unhcr.org/sites/default/files/Niger-Sahel%20factsheet-June_%20July%202021.pdf (last accessed: 25/07/2022).

³⁹³ UNHCR (2020h).

³⁹⁴ Cecchinel/Smirnova (2018), p. 18.

³⁹⁵ Cf. The New Humanitarian (2021): What’s behind the Rising Violence in Western Niger? 23/09/2021. <https://www.thenewhumanitarian.org/news-feature/2021/9/23/whats-behind-the-rising-violence-in-western-niger> (last accessed: 25/07/2022).

³⁹⁶ Lambert (2022a).

³⁹⁷ Boyer (2019b). Cecchinel/Smirnova (2018).

³⁹⁸ Interview asylum seeker, 2019.

³⁹⁹ Charrière/Fresia (2008), p. 32.

⁴⁰⁰ Participant observation Refugee Directorate, 2019.

⁴⁰¹ Loi N° 97-016, art. 9.

⁴⁰² Loi N° 2012-45 du 25 septembre 2012 portant Code du travail de la République du Niger, art. 48.

⁴⁰³ Cecchinel/Smirnova (2018), p. 18.

employment prior to starting an enterprise.⁴⁰⁴ A refugee described this as a difficult and expensive process.⁴⁰⁵ For these reasons, a former refugee criticised the discrimination of refugees on the labour market.⁴⁰⁶

De facto, livelihood is very limited for many asylum seekers and refugees in Niger. This is not different from citizens who might nevertheless more easily mobilise extended family relations for livelihood strategies.⁴⁰⁷ The difficult economic context limited the income-generating activities by UNHCR.⁴⁰⁸ Nevertheless, the UNHCR also contributed to large differences between refugees, with some asylum seekers and refugees not receiving food and/or shelter assistance and some asylum seekers in the Mixed Migration and ETM programmes hosted in guest houses.⁴⁰⁹

6. Right to Education

For the right to education, students have the same rights as nationals. University students pay the admission fees for nationals.⁴¹⁰ In practice, however, access to education is often difficult. UNHCR reports ‘significant challenges in accessing quality early childhood, primary, secondary, tertiary education, technical and vocational training, and overall, lifelong learning opportunities’ in West and Central Africa.⁴¹¹ UNHCR prioritised primary education in Niger, but a refugee association estimated that most refugee children in Niamey did not go to school.⁴¹² This was also a general trend in Niger where more than half of the children between the age of seven and 12 did not have access to education.⁴¹³ In the camp for Sudanese refugees in Agadez, only ‘unformal education’ was organised in 2020.⁴¹⁴ According to a UNHCR staff member, English-speaking refugees experienced access issues to public schools with instructions in French.⁴¹⁵

7. Right to Health

Asylum seekers and refugees have access to basic health assistance by UNHCR and its partner NGOs. For these reasons, they are seen as receiving better health assistance than nationals. However, they need to advance the consultation fees, which poses challenges to them.⁴¹⁶

IX. Conclusion

Few studies have so far investigated RSD procedures and refugee protection practices in Niger or in West Africa at large. This report analyses refugee recognition and protection in Niger from a perspective integrating the analysis of the legal framework with an ethnographic approach to the actual practices. Generally speaking, Niger is a state with severely limited state resources and many political priorities

⁴⁰⁴ Loi N°97-016, art. 9. Ordonnance N° 87-10 du 12 mars 1987 fixant le régime d’exercice d’activités professionnelles non salariées par les étrangers. Décret N° 87-36/PCMS/MCI/T du 12 mars 1987 fixant les conditions d’exercice d’activités professionnelles non salariées par les étrangers.

⁴⁰⁵ Interview refugee, 2019.

⁴⁰⁶ Interview former refugee, 2019.

⁴⁰⁷ Cf. Boyer (2019b), pp. 4-80.

⁴⁰⁸ Lambert (2022a).

⁴⁰⁹ Boyer (2019b), p. 99. Lambert (2022a).

⁴¹⁰ Interview refugee student association, 2019.

⁴¹¹ UNHCR (2021k): Education Update. Regional Bureau for West and Central Africa. July 2021. https://reporting.unhcr.org/sites/default/files/RBWCA_Education%20Update%20July%202021.pdf (last accessed: 25/07/2022).

⁴¹² Interview refugee student association, 2019.

⁴¹³ UNHCR (2020f).

⁴¹⁴ UNHCR (2020a).

⁴¹⁵ Interview UNHCR staff member, 2019.

⁴¹⁶ Lambert (2022a).

and with an important influence of international aid on its politics.⁴¹⁷ It therefore has limited state capacities for refugee protection and recognition. Despite these constraints, Niger has been confronted with a quickly rising number of protection seekers and turned into the largest refugee host country in West Africa in the past decade. The growing insecurity in its neighbour countries and in Niger itself, leading to nearly 700 civilian casualties in Niger during the first six months in 2021,⁴¹⁸ have presented additional challenges to Niger's relatively open-door policy in the region and importantly increased both refugee and IDP numbers.

The report suggests two central aspects informing refugee recognition and protection in Niger. First, the legal framework covers core dimensions of refugee protection, but important legal gaps remain especially with respect to an independent appeal procedure. Its limitation to an administrative review has also prevented the development of case law which could provide a corrective to administrative practices. In 2018, the state and the UNHCR have started a reform process of the legal and institutional framework.

Second, a relevant implementation gap between legal norms and actual practices can be noted. This gap is situated in limited administrative capacities and a context shaped by security, political and moral concerns. In the past few years, this context has informed state actors' choices and has led to multiple adaptations in the individual RSD procedures for specific groups. Specific profiles have been subjected to securitising procedures (security screening for Sudanese applicants, the morality check). Unwanted applicants, including secondary movements, have experienced delayed admission practices. A profiling prior to the asylum procedure in Agadez sought to filter unfounded cases among mixed migration flows. For political concerns of the politicised ETM, the RSD within the ETM has been shifted from the state to UNHCR mandate RSD to speed up resettlement, resulting in a disempowerment of Nigerien bureaucrats. Apart from the morality check, these multiple procedural adaptations have no legal basis in the Nigerien refugee law and decrees.

These procedural adaptations are situated in the propagation of individual RSD in the country. After the handover of responsibility from UNHCR to the state, the asylum administration was for the first 20 years centred on *prima facie* protection. This *prima facie* recognition was a response to the limited capacities of the asylum authorities, which can still be considered the case today. Since 2017, individual asylum applications have importantly risen with the ETM and Mixed Migration programmes and developments in migration control in Niger and the Maghreb. This has presented a challenge to the responsible state authorities, although they have received additional staff, training and support from UNHCR, mostly with EU funding. Despite the growing backlog of individual asylum applications, the asylum authorities have so far refrained from recognizing medium-sized refugee groups as *prima facie* refugees, especially the circa each 2,000 applicants from Sudan in Agadez and from different countries in Diffa. This shift can be explained with their securitisation and the attempt to prevent pull factors to Niger in response to the Mixed Migration policy by UNHCR. The rise of individual RSD in the context of EU externalisation policies has extended the already important influence of UNHCR on the RRR to the field of eligibility work and asylum adjudication in the case of the ETM, to decision-writing for all individual RSD cases, and to the exclusion of unfounded claims following a profiling prior to the asylum procedure in Agadez.

With respect to the quality of the recognition process, the four dimensions of accessibility, accuracy, efficiency and fairness point to important legal gaps and their implementation. Although no formal admissibility rules exist, admission is *de facto* often shaped by a discretionary approach. While some measures have been improved with the identification and referral of asylum seekers and the beginning decentralisation of the procedure, an informal Safe Third Country practice made the access to asylum for specific groups like the Sudanese in Agadez, protection seekers in Diffa, and applicants perceived as secondary movements, difficult. New developments like the growing insecurity and border control

⁴¹⁷ Lavigne Delville, Philippe (2011): Vers une socio-anthropologie des interventions de développement comme action publique. Habilitation. Lyon, Université Lyon 2.

⁴¹⁸ ACLED (2021): Sahel 2021: Communal Wars, Broken Ceasefires, and Shifting Frontlines. <https://acleddata.com/2021/06/17/sahel-2021-communal-wars-broken-ceasefires-and-shifting-frontlines/> (last accessed: 25/07/2022).

measures have contributed to preventing access. With respect to the accuracy of the procedures, UNHCR evaluations attested a limited quality of individual RSD decision-making, especially in light of the lacking legal reasoning in decision letters, informal Safe Third Country practices, the handling of LGBTIQ* applications, the morality check conducted by a police intelligence unit, and limited country-of-origin information. As regards *prima facie* procedures, late arrivals from Northern Mali seemingly have difficulties in receiving *prima facie* status, as their motives are put under scrutiny by state and UNHCR agents. In light of the limited cases observed, further studies could corroborate these findings. Since its establishment, Niger's RRR has also seen a limited efficiency. Despite the ongoing capacity-building, the backlogs have increased over time. This is especially due to the individual RSD caseload which has risen since 2017. Fairness norms are not clearly defined, but demonstrate limits of due process, including the right to a hearing, access to legal representation and counselling and independent judicial review.

Issues with respect to the quality of refugee protection are also mostly on the level of the implementation of rights. Apart from their access to work, refugees *de jure* enjoy equal rights like nationals. *De facto*, asylum seekers and refugees can for example be subjected to arbitrary practices by the police and security forces, have a limited freedom of movement in the region (and partly in the country), and be at the risk of statelessness due to a lack of documentation. The access to citizenship remains a long process with an unclear outcome. However, in comparison to Western states, Nigerien migration law is more permeable and the low importance of documentation and social norms of hospitality in society facilitate the informal protection of displaced populations.

X. Appendices

1. Map⁴¹⁹



2. Ratifications

Convention	Year of Ratification/ Accession/ Succession	Reservations
Geneva Convention Relating to the Status of Refugees (1951) and its Additional Protocol (1967)	1961 1970	-
OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (1969)	1971	-
African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)	2012	-
Convention Relating to the Status of Stateless Persons (1954)	2014	-

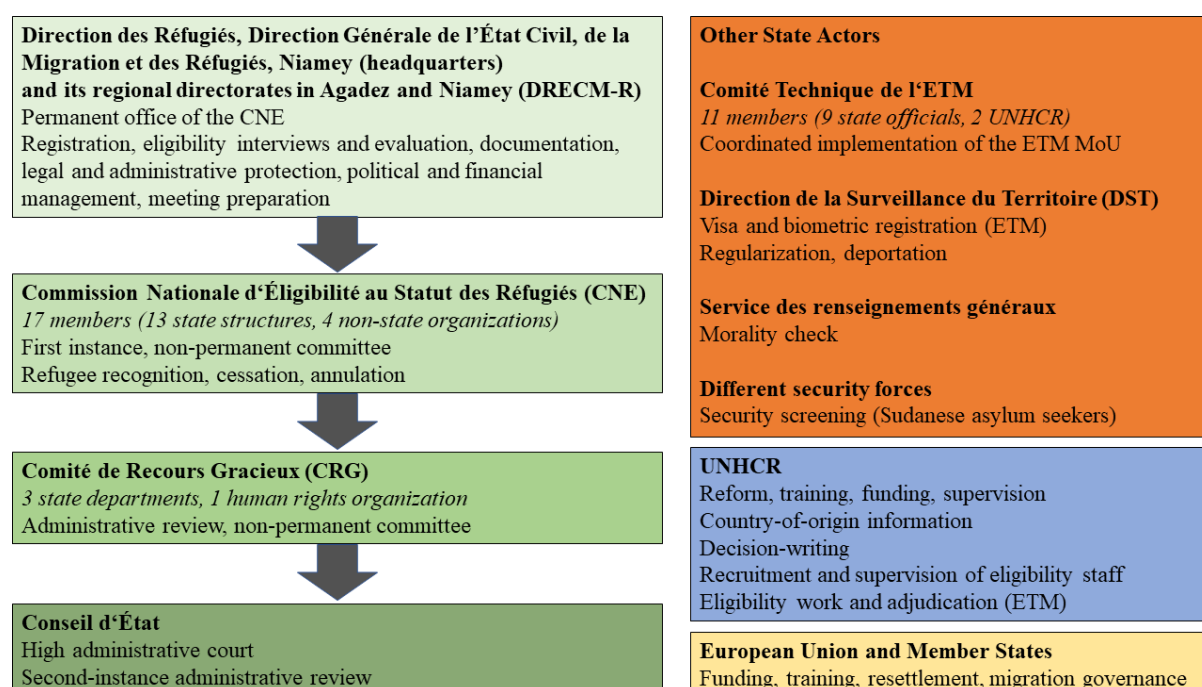
⁴¹⁹ Open Street Map (2021): Niger. <https://www.openstreetmap.org/#map=6/12.236/6.614> (last accessed: 25/07/2022).

Convention on the Reduction of Statelessness (1961)	1985	reservations in respect of articles 11 (establishment of a body for claim examination and assistance), 14 (submission of disputes to International Court of Justice) and 15 (application of the convention to non-self-governing territories)
African Charter on Human and Peoples' Rights (Banjul Charter, 1981)	1986	-

3. *Prima facie* and Temporary Protection Declarations since 2000

Country of Origin	Validity	Status	Legal Basis
Nigeria limitation to states: Borno, Yobé, Adamawa, Sokoto, Katsina, Zamfara	2020-	<i>Prima facie</i>	Arrêté N°571/MISP/D/ACR/SG/DGECM-R du 09 juillet 2020 accordant le statut de réfugié <i>prima facie</i> aux ressortissants nigériens victimes de l'insécurité généralisée dans certains Etats fédérés du nord du Nigeria.
Nigeria limitation to states: Borno, Yobé, Adamawa	2013-2020	Temporary protection	Arrêté N°806/MI/SP/D/AR/DEC-R du 4 décembre 2013 accordant le bénéfice du statut temporaire de réfugiés à des ressortissants du nord-est du Nigeria.
Mali limitation: Northern Mali	2012-	<i>Prima facie</i>	Arrêté N°142/MI/SP/AR/DEC-R du 16 Mars 2012 accordant le bénéfice de statut de réfugiés aux Maliens victimes du conflit armé du Nord Mali.

4. Actors in the RRR⁴²⁰



5. Statistics

a. First-instance Asylum Applications 2000-2020 by Nationality and Total⁴²¹

Year	Country of Origin	Authority	Applied	Total Applications per Year
2000	Cameroon	UNHCR	25	146
	Congo	UNHCR	5	
	Dem. Rep. of the Congo	UNHCR	96	
	Ivory Coast	UNHCR	5	
	Rwanda	UNHCR	5	
	Sierra Leone	UNHCR	5	
	Sudan	UNHCR	5	
2001	Chad	UNHCR	5	82
	Congo	UNHCR	10	
	Dem. Rep. of the Congo	UNHCR	57	
	Rwanda	UNHCR	5	
	Sierra Leone	UNHCR	5	
2002	Congo	UNHCR	5	58
	Dem. Rep. of the Congo	UNHCR	43	
	Ivory Coast	UNHCR	5	
	Rwanda	UNHCR	5	
2003	Chad	UNHCR	11	42

⁴²⁰ Compilation by the author, based on information in III.

⁴²¹ UNHCR (2021): Refugee Data Finder. Asylum Applications for all Countries of Origin in Niger, 2000-2020. <https://www.unhcr.org/refugee-statistics/download/?url=k867Cz> (last accessed: 25/07/2022).

Year	Country of Origin	Authority	Applied	Total Applications per Year
	Dem. Rep. of the Congo	UNHCR	11	
	Palestinian	UNHCR	5	
	Ivory Coast	UNHCR	5	
	Iraq	UNHCR	5	
	Liberia	UNHCR	5	
2004	Dem. Rep. of the Congo	UNHCR	35	55
	Ivory Coast	UNHCR	15	
	Liberia	UNHCR	5	
2005	Dem. Rep. of the Congo	Government	10	15
	Ivory Coast	Government	5	
2006	Central African Rep.	Government	10	20
	Chad	Government	5	
	Dem. Rep. of the Congo	Government	5	
2007	Dem. Rep. of the Congo	Government	10	10
2008	Chad	Government	19	19
2009	Chad	Government	5	10
	Dem. Rep. of the Congo	Government	5	
2010	Chad	Government	5	10
	Ivory Coast	Government	5	
2011	Chad	Government	11	136
	Ivory Coast	Government	115	
	Libya	Government	5	
	Sudan	Government	5	
2012	Syrian Arab Rep.	Government	5	5
2013	Central African Rep.	Government	10	20
	Cameroon	Government	5	
	Dem. Rep. of the Congo	Government	5	
2014	Central African Rep.	Government	76	76
2015	Central African Rep.	Government	11	31
	Dem. Rep. of the Congo	Government	5	
	Libya	Government	5	
	Nigeria	Government	10	
2016	Central African Rep.	Government	16	16
2017	Central African Rep.	Government	29	295
	Cameroon	Government	10	
	Dem. Rep. of the Congo	Government	12	
	Eritrea	Government	132	
	Ethiopia	Government	5	
	Ivory Coast	Government	5	
	Libya	Government	5	
	Nigeria	Government	10	
	Somalia	Government	66	
Togo	Government	5		

Year	Country of Origin	Authority	Applied	Total Applications per Year
2018	Turkey	Government	16	5790
	Central African Rep.	Joint	89	
	Chad	Joint	881	
	Cameroon	Joint	123	
	Dem. Rep. of the Congo	Joint	10	
	Eritrea	Joint	1461	
	Ethiopia	Joint	149	
	Guinea-Bissau	Joint	5	
	Guinea	Joint	26	
	Ivory Coast	Joint	5	
	Liberia	Joint	5	
	Libya	Joint	14	
	Mali	Joint	51	
	Nigeria	Joint	209	
	Pakistan	Joint	15	
	Sierra Leone	Joint	5	
	Somalia	Joint	300	
	Sudan	Joint	2407	
	South Sudan	Joint	10	
	Syrian Arab Rep.	Joint	10	
Togo	Joint	10		
Yemen	Joint	5		
2019	Central African Rep.	Government	39	43476 ⁴²²
	Chad	Government	438	
	Cameroon	Government	79	
	Dem. Rep. of the Congo	Government	14	
	Eritrea	Government	11	
	Ethiopia	Government	5	
	Ivory Coast	Government	5	
	Mali	Government	39	
	Nigeria	Government	41822	
	Somalia	Government	16	
	Sudan	Government	224	
	Syrian Arab Rep.	Government	5	
	Yemen	Government	5	
	Eritrea	Joint	601	
	Ethiopia	Joint	13	
	Somalia	Joint	73	
	Sudan	Joint	87	
2020	Central African Rep.	Government	24	1446
	Chad	Government	625	
	Cameroon	Government	76	

⁴²² Includes 41,822 applicants from Nigeria. Most of them were recognised *prima facie* afterwards.

Year	Country of Origin	Authority	Applied	Total Applications per Year
	Congo	Government	6	
	Dem. Rep. of the Congo	Government	17	
	Eritrea	Government	5	
	Ethiopia	Government	5	
	Guinea	Government	15	
	Ivory Coast	Government	10	
	Liberia	Government	5	
	Mali	Government	32	
	Nigeria	Government	13	
	Somalia	Government	5	
	Sudan	Government	302	
	Syrian Arab Rep.	Government	5	
	Togo	Government	13	
	Eritrea	Joint	176	
	Ethiopia	Joint	6	
	Somalia	Joint	13	
	Sudan	Joint	93	

b. Administrative Review Applications 2000-2020 by Nationality and Total⁴²³

Year	Country of Origin	Authority	Applied	Total Applications per Year
2005	Dem. Rep. of the Congo	Government	5	5
2009	Chad	Government	5	5
2011	Ivory Coast	Government	41	41
2014	Central African Rep.	Government	14	14
2017	Dem. Rep. of the Congo	Government	5	15
	Ivory Coast	Government	5	
	Nigeria	Government	5	
2019	Cameroon	Government	5	108
	Dem. Rep. of the Congo	Government	5	
	Guinea	Government	5	
	Nigeria	Government	5	
	Togo	Government	5	
	Eritrea	Joint	30	
	Ethiopia	Joint	12	
Somalia	Joint	41		
2020	Central African Rep.	Government	5	111
	Chad	Government	12	
	Cameroon	Government	7	
	Dem. Rep. of the Congo	Government	5	

⁴²³ UNHCR (2021).

Year	Country of Origin	Authority	Applied	Total Applications per Year
	Ethiopia	Government	5	
	Guinea	Government	5	
	Mali	Government	5	
	Sudan	Government	16	
	Eritrea	Joint	18	
	Ethiopia	Joint	20	
	Somalia	Joint	13	

c. First-instance Refugee Status Recognition Rate by Nationality 2000-2020⁴²⁴

Year	Country of Origin	Authority	Positive Decisions	Negative Decisions	Otherwise Closed	Total Decisions	Refugee Status Recognition Rate
2000	Congo	UNHCR	5	0	0	5	100
	Dem. Rep. of the Congo	UNHCR	5	0	0	5	100
2001	Chad	UNHCR	0	5	0	5	0
	Congo	UNHCR	5	5	0	10	50
	Dem. Rep. of the Congo	UNHCR	16	41	0	57	28.07
	Sierra Leone	UNHCR	0	5	0	5	0
2002	Algeria	UNHCR	0	0	5	5	0
	Cameroon	UNHCR	0	0	48	48	0
	Chad	UNHCR	0	5	5	10	0
	Comoros	UNHCR	0	0	5	5	0
	Congo	UNHCR	0	5	18	23	0
	Ivory Coast	UNHCR	0	0	10	10	0
	Dem. Rep. of the Congo	UNHCR	13	31	238	282	29.55
	Guinea-Bissau	UNHCR	0	0	5	5	0
	Liberia	UNHCR	0	0	5	5	0
	Rwanda	UNHCR	5	0	5	10	100
Sierra Leone	UNHCR	5	5	12	22	50	

⁴²⁴ UNHCR (2021m): Refugee Data Finder. Asylum Decisions 2000-2020 for Niger by all Countries of Origin. <https://www.unhcr.org/refugee-statistics/download/?url=06db2T> (last accessed: 25/07/2022). Note: Since Niger does not implement complementary protection, the refugee status recognition rate equals the total recognition rate.

Year	Country of Origin	Authority	Positive Decisions	Negative Decisions	Otherwise Closed	Total Decisions	Refugee Status Recognition Rate
	Somalia	UNHCR	0	0	19	19	0
	Sudan	UNHCR	0	0	5	5	0
2003	Chad	UNHCR	10	0	0	10	100
	Ivory Coast	UNHCR	5	0	0	5	100
	Dem. Rep. of the Congo	UNHCR	5	11	26	42	31.25
	Iraq	UNHCR	5	0	0	5	100
	Palestinian	UNHCR	5	0	0	5	100
2004	Ivory Coast	UNHCR	5	0	5	10	100
	Dem. Rep. of the Congo	UNHCR	10	5	13	28	66.67
2005	Dem. Rep. of the Congo	Govt	0	5	0	5	0
2006	Central African Rep.	Govt	0	5	0	5	0
	Ivory Coast	Govt	5	0	0	5	100
	Dem. Rep. of the Congo	Govt	0	5	5	10	0
	Liberia	Govt	0	0	5	5	0
2007	Dem. Rep. of the Congo	Govt	5	5	0	10	50
2008	Central African Rep.	Govt	0	5	0	5	0
	Chad	Govt	5	0	0	5	100
2009	Chad	Govt	0	0	5	5	0
2010	Chad	Govt	0	0	18	18	0
	Dem. Rep. of the Congo	Govt	0	0	11	11	0
2011	Ivory Coast	Govt	5	36	23	64	12.20
2013	Cameroon	Govt	0	0	5	5	0
	Central African Rep.	Govt	10	0	0	10	100
	Ivory Coast	Govt	0	0	5	5	0
	Rwanda	Govt	0	5	0	5	0

Year	Country of Origin	Authority	Positive Decisions	Negative Decisions	Otherwise Closed	Total Decisions	Refugee Status Recognition Rate
	Syrian Arab Rep.	Govt	5	0	0	5	100
2014	Cameroon	Govt	0	0	5	5	0
	Central African Rep.	Govt	0	14	0	14	0
	Chad	Govt	0	0	10	10	0
	Ivory Coast	Govt	0	0	15	15	0
	Dem. Rep. of the Congo	Govt	0	0	5	5	0
	Nigeria	Govt	0	0	10	10	0
2015	Central African Rep.	Govt	18	13	0	31	58.06
2016	Central African Rep.	Govt	32	0	0	32	100
	Dem. Rep. of the Congo	Govt	5	0	0	5	100
	Libya	Govt	5	0	0	5	100
	Nigeria	Govt	0	0	10	10	0
2017	Central African Rep.	Govt	0	0	29	29	0
	Ivory Coast	Govt	0	5	13	18	0
	Dem. Rep. of the Congo	Govt	0	5	5	10	0
	Nigeria	Govt	0	5	0	5	0
	Turkey	Govt	0	0	16	16	0
2018	Cameroon	Joint	5	0	40	45	100
	Central African Rep.	Joint	15	0	14	29	100
	Chad	Joint	0	0	23	23	0
	Ivory Coast	Joint	0	0	5	5	0
	Dem. Rep. of the Congo	Joint	0	0	5	5	0
	Eritrea	Joint	1296	0	0	1296	100
	Ethiopia	Joint	73	0	0	73	100
	Guinea	Joint	0	0	13	13	0

Year	Country of Origin	Authority	Positive Decisions	Negative Decisions	Otherwise Closed	Total Decisions	Refugee Status Recognition Rate
	Guinea-Bissau	Joint	0	0	5	5	0
	Liberia	Joint	0	0	5	5	0
	Libya	Joint	0	0	14	14	0
	Mali	Joint	0	0	14	14	0
	Nigeria	Joint	0	0	83	83	0
	Pakistan	Joint	0	0	5	5	0
	Sierra Leone	Joint	0	0	5	5	0
	Somalia	Joint	161	0	5	166	100
	Sudan	Joint	26	0	696	722	100
	Syrian Arab Rep.	Joint	5	0	0	5	100
	Togo	Joint	0	0	5	5	0
2019	Cameroon	Govt	0	5	5	10	0
	Central African Rep.	Govt	103	0	5	108	100
	Chad	Govt	0	0	5	5	0
	Ivory Coast	Govt	0	0	5	5	0
	Dem. Rep. of the Congo	Govt	5	5	0	10	50
	Eritrea	Joint	734	26	5	765	96.58
	Eritrea	Govt	5	0	0	5	100
	Ethiopia	Joint	64	24	0	88	72.73
	Guinea	Govt	0	5	5	10	0
	Nigeria	Govt	0	5	7251	7256	0
	Somalia	Joint	208	17	10	235	92.44
	Sudan	Joint	93	0	0	93	100
	Sudan	Govt	358	36	148	542	90.86
	Syrian Arab Rep.	Joint	5	0	0	5	100
Togo	Govt	5	5	0	10	50	
2020	Cameroon	Govt	16	5	12	33	76.19
	Central African Rep.	Govt	15	5	0	20	75
	Chad	Govt	5	10	10	25	33.33
	Ivory Coast	Govt	0	0	5	5	0
	Dem. Rep. of the Congo	Govt	0	0	14	14	0
	Eritrea	Govt	0	0	5	5	0

Year	Country of Origin	Authority	Positive Decisions	Negative Decisions	Otherwise Closed	Total Decisions	Refugee Status Recognition Rate
	Eritrea	Joint	211	0	24	235	100
	Ethiopia	Govt	0	5	5	10	0
	Ethiopia	Joint	5	0	0	5	100
	Guinea	Govt	0	5	5	10	0
	Mali	Govt	0	0	12	12	0
	Nigeria	Govt	0	0	34689	34689	0
	Somalia	Joint	26	0	20	46	100
	South Sudan	Govt	5	0	0	5	100
	Sudan	Joint	29	0	21	50	100
	Sudan	Govt	788	16	76	880	98.01
	Syrian Arab Rep.	Govt	5	0	0	5	100

d. First-instance Total Refugee Status Recognition Rates by Year 2000-2020⁴²⁵

Year	Authority	Positive Decisions	Negative Decisions	Otherwise Closed	Total Decisions	Refugee Status Recognition Rate
2000	UNHCR	10	0	0	10	100
2001	UNHCR	21	56	0	77	27.27
2002	UNHCR	23	46	380	449	33.33
2003	UNHCR	30	11	26	67	73.17
2004	UNHCR	15	5	18	38	75
2005	Govt	0	5	0	5	0
2006	Govt	5	10	10	25	33.33
2007	Govt	5	5	0	10	50
2008	Govt	5	5	0	10	50
2009	Govt	0	0	5	5	0
2010	Govt	0	0	29	29	0
2011	Govt	5	36	23	64	12.20
2013	Govt	15	5	10	30	75
2014	Govt	0	14	45	59	0
2015	Govt	18	13	0	31	58.06
2016	Govt	42	0	10	52	100
2017	Govt	0	15	63	78	0
2018	Joint	1581	0	937	2518	100
2019	Govt	476	61	7424	7961	88.64

⁴²⁵ UNHCR (2021n): Refugee Data Finder. Asylum Decisions, no Country of Origin Indicated, Country of Asylum Niger, 2000-2020. <https://www.unhcr.org/refugee-statistics/download/?url=fOfR95> (last accessed: 25/07/2022). Note: the refugee status recognition rate is calculated as the recognised cases/ (recognised + other positive+ rejected) * 100. Since Niger does not implement complementary protection, the refugee status recognition rate equals the total recognition rate.

Year	Authority	Positive Decisions	Negative Decisions	Otherwise Closed	Total Decisions	Refugee Status Recognition Rate
2019	Joint	1104	67	15	1186	94.28
2020	Joint	271	0	65	336	100
2020	Govt	834	46	34833	35713	94.77

e. Administrative Review: Refugee Status Recognition Rate by Nationality 2000-2020⁴²⁶

Year	Country of Origin	Authority	Positive Decisions	Negative Decisions	Otherwise Closed	Total Decisions	Refugee Status Recognition Rate
2003	Dem. Rep. of the Congo	UNHCR	0	27	0	27	0
2005	Dem. Rep. of the Congo	Govt	0	5	0	5	0
2006	Chad	Govt	0	0	5	5	0
	Congo	Govt	0	0	5	5	0
2009	Chad	Govt	0	5	0	5	0
2013	Ivory Coast	Govt	18	10	0	28	64.29
2014	Rwanda	Govt	0	5	0	5	0
2016	Central African Rep.	Govt	5	0	0	5	100
2017	Central African Rep.	Govt	0	0	10	10	0
	Ivory Coast	Govt	0	0	5	5	0
2019	Eritrea	Joint	20	0	0	20	100
	Ethiopia	Joint	10	0	0	10	100
	Somalia	Joint	32	0	0	32	100
2020	Cameroon	Govt	0	5	5	10	0
	Ivory Coast	Govt	0	5	0	5	0
	Dem. Rep. of the Congo	Govt	0	11	0	11	0
	Eritrea	Joint	19	0	0	19	100
	Ethiopia	Joint	15	0	0	15	100
	Guinea	Govt	0	0	10	10	0
	Nigeria	Govt	0	5	5	10	0

⁴²⁶ UNHCR (2021m). Note: the refugee status recognition rate is calculated as the recognised cases/ (recognised + other positive+ rejected) * 100. Since Niger does not implement complementary protection, the refugee status recognition rate equals the total recognition rate.

Year	Country of Origin	Authority	Positive Decisions	Negative Decisions	Otherwise Closed	Total Decisions	Refugee Status Recognition Rate
	Somalia	Joint	21	0	0	21	100
	Sudan	Govt	5	0	0	5	100
	Togo	Govt	0	5	0	5	0

f. Administrative Review Total Refugee Status Recognition Rates by Year 2000-2020⁴²⁷

Year	Authority	Positive Decisions	Negative Decisions	Otherwise Closed	Total Decisions	Refugee Status Recognition Rate
2003	UNHCR	0	27	0	27	0
2005	Govt	0	5	0	5	0
2006	Govt	0	0	10	10	0
2009	Govt	0	5	0	5	0
2013	Govt	18	10	0	28	64.29
2014	Govt	0	5	0	5	0
2016	Govt	5	0	0	5	100
2017	Govt	0	0	15	15	0
2019	Joint	62	0	0	62	100
2020	Govt	5	31	20	56	13.89
2020	Joint	55	0	0	55	100

g. Asylum Decisions and Meetings by the First-instance and Administrative Review Bodies 2016-2020⁴²⁸

		2016	2017	2018	2019	2020
First-instance body Commission nationale d'Éligibilité (CNE)	Number of CNE sessions held	0	1	8	3	3
	Number of first-instance decisions	0	10	437	594	558
	Refugee status recognition rate in CNE	-	100%	79,53%	68%	90,32%
Administrative review body Comité de Recours Gracieux (CRG)	Number of CRG sessions held	0	0	0	1	1
	Number of administrative review decisions	0	0	0	11	56

⁴²⁷ UNHCR (2021n). Note: the refugee status recognition rate is calculated as the recognised cases/ (recognised + other positive+ rejected) * 100. Since Niger does not implement complementary protection, the refugee status recognition rate equals the total recognition rate.

⁴²⁸ UNHCR Niger statistics shared via e-mail, 01/2021.

	Refugee status recognition rate in CRG	-	-	-	100%	1,79%
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h. Recognised Refugees and Registered Asylum Seekers 1960-2020 by Nationality and Total⁴²⁹

Year	Country of Origin	Refugees under UNHCR's mandate	Total of Recognised Refugees per Year	Registered Asylum Seekers	Total of Registered Asylum seekers per Year
1977	Guinea	1500	1500	0	0
1990	Chad	775	792	0	0
	Unknown	17		0	
1991	Chad	1375	1385	0	0
	Unknown	10		0	
1992	Chad	3397	3699	0	0
	Mali	280		0	
	Unknown	22		0	
1993	Burundi	5	16686	0	0
	Chad	3622		0	
	Mali	13000		0	
	Somalia	20		0	
	Togo	39		0	
1994	Chad	2000	15070	0	0
	Mali	13000		0	
	Somalia	20		0	
	Unknown	50		0	
1995	Algeria	5	27620	0	0
	Burundi	7		0	
	Chad	2433		0	
	Cameroon	6		0	
	Liberia	10		0	
	Mali	25000		0	
	Rwanda	27		0	
	Somalia	71		0	
	Sudan	10		0	
	Togo	51		0	
1996	Algeria	7	25842	0	0
	Burundi	7		0	
	Chad	1609		0	
	Cameroon	13		0	
	Iran (Islamic Rep. of)	5		0	
	Liberia	27		0	

⁴²⁹ UNHCR (2021o): Refugee Data Finder. Refugees and Asylum Seekers by All Countries of Origin 1960-2020, Niger. <https://www.unhcr.org/refugee-statistics/download/?url=dZ40tV> (last accessed: 25/07/2022).

Year	Country of Origin	Refugees under UNHCR's mandate	Total of Recognised Refugees per Year	Registered Asylum Seekers	Total of Registered Asylum seekers per Year
	Mali	24000		0	
	Nigeria	6		0	
	Rwanda	29		0	
	Sierra Leone	5		0	
	Somalia	64		0	
	Sudan	20		0	
	Togo	50		0	
1997	Algeria	10	7374	0	0
	Burundi	5		0	
	Cambodia	6		0	
	Chad	225		0	
	Iran (Islamic Rep. of)	5		0	
	Iraq	5		0	
	Mali	7060		0	
	Rwanda	18		0	
	Somalia	26		0	
	Sudan	5		0	
	Togo	9		0	
1998	Algeria	12	3691	0	0
	Burundi	5		0	
	Cambodia	12		0	
	Chad	159		0	
	Cameroon	21		0	
	Congo	17		0	
	Dem. Rep. of the Congo	40		0	
	Ghana	7		0	
	Iran (Islamic Rep. of)	5		0	
	Liberia	7		0	
	Mali	3288		0	
	Rwanda	38		0	
	Sierra Leone	5		0	
	Somalia	36		0	
	Sudan	29		0	
	Togo	10		0	
1999	Algeria	14	350	0	0
	Burundi	5		0	
	Cambodia	18		0	
	Chad	50		0	
	Congo	27		0	
	Dem. Rep. of the Congo	134		0	

Year	Country of Origin	Refugees under UNHCR's mandate	Total of Recognised Refugees per Year	Registered Asylum Seekers	Total of Registered Asylum seekers per Year
	Ghana	7		0	
	Iran (Islamic Rep. of)	5		0	
	Liberia	8		0	
	Rwanda	38		0	
	Sierra Leone	12		0	
	Somalia	10		0	
	Sudan	11		0	
	Togo	11		0	
2000	Algeria	0	59	5	442
	Chad	7		12	
	Cameroon	5		49	
	Congo	10		23	
	Dem. Rep. of the Congo	23		270	
	Comoros	0		5	
	Guinea-Bissau	0		6	
	Ivory Coast	0		7	
	Liberia	0		8	
	Rwanda	0		11	
	Sierra Leone	0		20	
	Somalia	14		20	
	Sudan	0		6	
	2001	Algeria		0	
Chad		7	12		
Cameroon		5	49		
Congo		13	23		
Dem. Rep. of the Congo		39	270		
Comoros		0	5		
Guinea-Bissau		0	6		
Ivory Coast		0	7		
Liberia		0	8		
Rwanda		0	11		
Sierra Leone		0	20		
Somalia		15	20		
Sudan		0	6		
2002		Chad	141	296	0
	Cameroon	5	0		
	Congo	5	5		
	Dem. Rep. of the Congo	78	31		
	Ivory Coast	0	6		
	Rwanda	34	0		

Year	Country of Origin	Refugees under UNHCR's mandate	Total of Recognised Refugees per Year	Registered Asylum Seekers	Total of Registered Asylum seekers per Year
	Sierra Leone	5		0	
	Somalia	11		0	
	Sudan	10		0	
	Togo	7		0	
2003	Central African Rep.	5	333	0	27
	Chad	151		7	
	Cameroon	5		0	
	Congo	5		5	
	Dem. Rep. of the Congo	84		5	
	Palestinian	5		0	
	Ivory Coast	9		0	
	Iraq	6		0	
	Liberia	0		5	
	Rwanda	35		0	
	Sierra Leone	0		5	
	Somalia	11		0	
	Sudan	10		0	
	Togo	7		0	
2004	Chad	153	342	7	32
	Cameroon	5		0	
	Congo	5		5	
	Dem. Rep. of the Congo	96		8	
	Palestinian	5		0	
	Ivory Coast	15		7	
	Iraq	6		0	
	Liberia	0		5	
	Rwanda	35		0	
	Somalia	11		0	
	Sudan	11		0	
2005	Chad	120	297	7	41
	Cameroon	5		0	
	Congo	0		5	
	Dem. Rep. of the Congo	86		13	
	Palestinian	5		0	
	Ivory Coast	15		11	
	Iraq	6		0	
	Liberia	0		5	
	Rwanda	36		0	
	Somalia	11		0	
	Sudan	13		0	

Year	Country of Origin	Refugees under UNHCR's mandate	Total of Recognised Refugees per Year	Registered Asylum Seekers	Total of Registered Asylum seekers per Year
2006	Central African Rep.	0	312	5	18
	Chad	132		0	
	Cameroon	5		0	
	Congo	5		0	
	Dem. Rep. of the Congo	87		8	
	Ivory Coast	26		5	
	Iraq	6		0	
	Rwanda	24		0	
	Somalia	12		0	
	Sudan	15		0	
2007	Central African Rep.	5	318	5	14
	Chad	132		0	
	Cameroon	5		0	
	Congo	5		0	
	Dem. Rep. of the Congo	90		9	
	Ivory Coast	26		0	
	Iraq	6		0	
	Rwanda	24		0	
	Somalia	11		0	
	Sudan	14		0	
2008	Central African Rep.	5	316	0	22
	Chad	137		15	
	Congo	5		0	
	Dem. Rep. of the Congo	89		7	
	Ivory Coast	27		0	
	Iraq	6		0	
	Rwanda	24		0	
	Somalia	9		0	
	Sudan	14		0	
	2009	Central African Rep.		5	
Chad		136	20		
Cameroon		5	0		
Congo		5	0		
Dem. Rep. of the Congo		91	10		
Ivory Coast		28	0		
Iraq		6	0		
Rwanda		26	0		
Somalia		9	0		
Sudan		15	0		

Year	Country of Origin	Refugees under UNHCR's mandate	Total of Recognised Refugees per Year	Registered Asylum Seekers	Total of Registered Asylum seekers per Year
2010	Central African Rep.	5	315	0	11
	Chad	140		5	
	Cameroon	5		0	
	Congo	5		0	
	Dem. Rep. of the Congo	85		0	
	Ivory Coast	23		6	
	Iraq	6		0	
	Rwanda	22		0	
	Somalia	9		0	
	Sudan	15		0	
2011	Central African Rep.	5	301	0	113
	Chad	139		10	
	Cameroon	5		0	
	Congo	5		0	
	Dem. Rep. of the Congo	67		0	
	Ivory Coast	30		98	
	Iraq	6		0	
	Libya	0		5	
	Rwanda	26		0	
	Somalia	9		0	
	Sudan	9		0	
2012	Central African Rep.	5	50509	0	99
	Chad	142		10	
	Cameroon	6		0	
	Congo	5		0	
	Dem. Rep. of the Congo	68		0	
	Ivory Coast	28		65	
	Iraq	6		0	
	Libya	0		5	
	Mali	50204		0	
	Nigeria	0		8	
	Rwanda	27		5	
	Somalia	9		0	
	Sudan	9		0	
	Syrian Arab Rep.	0		6	
2013	Central African Rep.	11	57657	8	76
	Chad	143		9	
	Cameroon	6		6	
	Congo	5		0	

Year	Country of Origin	Refugees under UNHCR's mandate	Total of Recognised Refugees per Year	Registered Asylum Seekers	Total of Registered Asylum seekers per Year
	Dem. Rep. of the Congo	69		8	
	Ivory Coast	54		32	
	Iraq	6		0	
	Mali	48928		0	
	Nigeria	8385		8	
	Rwanda	26		5	
	Somalia	9		0	
	Sudan	9		0	
	Syrian Arab Rep.	6		0	
2014	Central African Rep.	11	77826	83	103
	Chad	158		0	
	Cameroon	6		0	
	Congo	5		0	
	Dem. Rep. of the Congo	69		5	
	Ivory Coast	55		15	
	Iraq	6		0	
	Mali	47466		0	
	Nigeria	30000		0	
	Rwanda	26		0	
	Somalia	9		0	
	Sudan	9		0	
	Syrian Arab Rep.	6		0	
2015	Central African Rep.	29	124717	63	103
	Chad	164		0	
	Cameroon	6		0	
	Congo	5		0	
	Dem. Rep. of the Congo	69		7	
	Ivory Coast	55		15	
	Iraq	6		0	
	Libya	0		7	
	Mali	56012		0	
	Nigeria	68321		11	
	Rwanda	26		0	
	Somalia	9		0	
	Sudan	9		0	
Syrian Arab Rep.	6	0			
2016	Central African Rep.	67	166089	41	61
	Chad	165		0	
	Cameroon	6		0	
	Congo	5		0	

Year	Country of Origin	Refugees under UNHCR's mandate	Total of Recognised Refugees per Year	Registered Asylum Seekers	Total of Registered Asylum seekers per Year
	Dem. Rep. of the Congo	73		5	
	Ivory Coast	55		15	
	Iraq	6		0	
	Libya	6		0	
	Mali	60154		0	
	Nigeria	105501		0	
	Rwanda	26		0	
	Somalia	9		0	
	Sudan	9		0	
	Syrian Arab Rep.	7		0	
2017	Central African Rep.	65	165729	31	278
	Chad	165		0	
	Cameroon	5		6	
	Congo	5		0	
	Dem. Rep. of the Congo	75		11	
	Eritrea	0		132	
	Ethiopia	0		5	
	Ivory Coast	51		5	
	Iraq	6		0	
	Libya	6		7	
	Mali	56838		0	
	Nigeria	108470		10	
	Rwanda	18		0	
	Somalia	9		66	
	Sudan	9		0	
	Syrian Arab Rep.	7		0	
	Togo	0		5	
2018	Central African Rep.	59	175413	91	3547
	Chad	165		858	
	Cameroon	7		83	
	Congo	5		0	
	Dem. Rep. of the Congo	74		14	
	Eritrea	493		297	
	Ethiopia	48		80	
	Ghana	0		5	
	Guinea	0		15	
	Ivory Coast	36		10	
	Iraq	6		0	
	Libya	7		6	
	Mali	55540		37	

Year	Country of Origin	Refugees under UNHCR's mandate	Total of Recognised Refugees per Year	Registered Asylum Seekers	Total of Registered Asylum seekers per Year
	Nigeria	118868		135	
	Pakistan	0		9	
	Rwanda	18		0	
	Somalia	52		200	
	Sudan	19		1687	
	South Sudan	5		8	
	Syrian Arab Rep.	11		5	
	Togo	0		7	
2019	Central African Rep.	145	179997	23	38077
	Chad	166		1291	
	Cameroon	5		153	
	Congo	5		0	
	Dem. Rep. of the Congo	80		19	
	Eritrea	284		299	
	Ethiopia	38		19	
	Guinea	0		12	
	Ivory Coast	38		5	
	Iraq	6		0	
	Libya	7		6	
	Mali	58000		74	
	Nigeria	120621		34699	
	Pakistan	0		8	
	Rwanda	18		0	
	Somalia	163		88	
	Sudan	409		1364	
	South Sudan	0		7	
	Syrian Arab Rep.	7		0	
	Togo	5		5	
Yemen	0	5			
2020	Burundi	5	233308	0	3285
	Benin	5		0	
	Central African Rep.	159		32	
	Chad	171		1903	
	Cameroon	19		195	
	Congo	5		6	
	Dem. Rep. of the Congo	81		13	
	Eritrea	272		91	
	Ethiopia	50		20	
	Guinea	0		11	
	Ivory Coast	40		6	

Year	Country of Origin	Refugees under UNHCR's mandate	Total of Recognised Refugees per Year	Registered Asylum Seekers	Total of Registered Asylum seekers per Year
	Iraq	6		0	
	Liberia	5		0	
	Libya	8		6	
	Mali	60245		99	
	Nigeria	171014		14	
	Pakistan	0		8	
	Rwanda	18		0	
	Somalia	140		24	
	Sudan	1042		836	
	South Sudan	8		5	
	Syrian Arab Rep.	5		0	
	Togo	5		11	
	Yemen	5		5	

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