

UCLG COUNTRY PROFILES

Republic of Niger

(République du Niger)



Capital: Niamey

Inhabitants: 13.957.000 (2005)

Area: 1.267.000 km²

1. Introduction



Niger is a country situated in the heart of the Sahel in West Africa. The majority of the country is made up of desert. It covers an area of 1,267,000 km² and shares borders with Libya, Algeria, Chad, Nigeria, Burkina Faso and Mali. Niger has a population of 13,230,000 with an annual growth rate of 0.9%. The gross national product (GNP) per inhabitant is estimated at \$865.

After the coup d'état in April 1999, a new Constitution was voted in and general elections were organised at the end of 1999, which brought the country into the 5th Republic. The Poverty Reduction Strategy Document (DSRP), which was developed in 2000, set out in Strategic Issue No. 4 "the promotion of good governance, strengthening human and institutional capacity and decentralisation", and the expected results of this were:

- Strengthened and sustainable political governance

- Strengthened and sustainable economic governance
- Strengthened and effective local governance
- Strengthened human and institutional capacity
- Strengthened and sustainable administrative governance

Like other black African countries with French heritage, Niger has had a heavily centralised State since independence. Decentralisation was adopted by Law No. 61/30 of 31 December 1961, which brought about the creation of local authorities, and Law No. 64/023 of 17 July 1964, which brought about the creation of administrative constituencies, and included local authorities themselves in the framework of State centralisation. The current decentralisation process resulting from the national conference which took place July-November 1991 is a response to federalist demands from the armed rebellion that Niger underwent.

2. Territorial structure

The Republic of Niger has three levels of decentralisation: regions, departments (sub-provinces) and municipalities. In reality, the only functioning local authorities are municipalities.



Regions were introduced as the highest level, based on the areas that previously came under the seven former departments and the urban community of Niamey, which were granted legal status as regions (local authority and administrative constituency). Departments, at the middle level, are made up of former urban subdivisions (*arrondissements*). Finally, municipalities cover areas and customary entities which were administrative units in settled agricultural areas and nomadic groups in pastoral areas. The entire country falls under the municipality system.

The resulting administrative map shows 8 regions (the urban community of Niamey is classed as a region), 36 departments at the middle level, and a network of municipalities at the bottom level; this includes a total of 265 municipalities: 213 at the rural level and 52 in urban areas, according to a classification scheme set out by the law. Five nomadic groups in settled areas have been attributed to municipalities.

In addition to the urban community of Niamey, three other urban communities have been created in Maradi, Tahoua and Zinder. They have been given:

- A deliberative body (urban community council) made up of delegates sent

from each of the member municipalities: these delegates are elected from municipal councillors in each municipality; the number of delegates per municipality depends on its population.

- An executive body (the urban community council leader) elected by its delegate peers. Two deputy leaders are elected at the same time.

3. Local democracy

Following many delays, local elections were finally organised on 24 and 25 July 2004. The voting process was carried through without incident across the country. These elections led to 3,747 municipal councillors being selected. In nearly all the polling stations, the voting process began and ended at the times indicated. The turnout rate was 43.56%.

The United Nation's National Elections Observatory and the Coordination of Observers, governed by UNDP, all felt that the municipal elections had been free, honest and transparent. The main problems that occurred related to practical issues: in the first instance there was a poor level of organisation in distributing polling cards. Another issue was the absence of political party delegates in certain polling stations, and electoral

Table 1: Decentralised structure

Administrative divisions		Deliberative bodies	Executive bodies	Decentralised trusteeship body
Type	No.			
Regions	8	Regional Council	Regional Council Leader	Governor
Departments	36	Department Council	Department Council Leader	Prefect
Urban Communities	4	Urban Community Council	Urban Community Council Leader	Governor
Municipalities	265	Municipal Council	Mayor	Prefect and governor for member municipalities of urban communities



procedures were not properly managed by certain polling station members. In addition to this were the difficulties encountered due to lack of the geographic definition of municipalities.

One of the reasons for the transparency of the ballot was the fact that the electoral process is organised and coordinated by a national independent electoral commission (CENI), which looks after the electoral census, management of the electoral roll and the organisation, procedure and supervision of electoral and referendum operations. This commission is independent from all powers or authorities. It enjoys autonomous management, structure and operations.

The composition of the commission (representatives from political groups, both from the party in power and the opposition and independent parties, various technical ministers, members of civil society, as well as representatives from human rights organisations, unions, traditional chiefdoms, etc.) is also a gauge of this transparency. It is chaired by a judge selected by his/her peers.

Municipalities have two authority bodies: a deliberative body (municipal council), and executive body composed of the mayor and one or two deputies, assisted by at least two specialist commissions.

Municipal councils are the deliberative bodies in municipalities. This is an assembly elected by the population of the municipality, and is in charge of managing the municipality's affairs. The number of municipal elected councillors ranges from 11 to 25. There are two types of municipal council members:

- elected members with decision-making powers, elected for four years
- members who have advisory capacity: leaders of community groups and administrative units, provincial leaders

and deputies from the area, who are non-elected councillors

Apart from the *ex officio* members, councillors are elected by universal direct suffrage in a free and secret vote by list ballot by proportional representation according to the highest majority rule.

Legal documentation in Niger tends to give an accurate picture of the socio-political reality of the electorate.

Although for a long time women in Niger were restricted to simply being voting members and coordinators within political parties, they are beginning to get involved in elective and executive roles, thanks to the Law of 7 June 2000 on quotas. This clause takes gender into consideration and constitutes a very significant move forward in a society where power, particularly at the local level, is still largely considered to be solely attributed to men. The law requires political parties in electoral contests to grant at least 10% of the candidacies for elective mandates to whichever gender has the lowest level of representation, and at least 25% of posts when appointing high-level State positions.

The application of this law resulted in many women becoming involved in municipal councils. Of the 3,747 seats available for all 265 municipalities at the 2004 elections, women obtained 661, which is around 17%. However, the sociocultural significance of the different communities in Niger means that women are not well represented within executive bodies, particularly in the role of mayor. There are currently 5 female mayors.

In addition, the Law (2002-012) makes provision for traditional chiefdoms to be included in local institutional plans by making traditional chiefs *ex officio* members with advisory capacity within the



various decision-making bodies of local authorities. The same is true for deputies: Law 2002-02 states that deputies are entitled to join the municipal council. The same law states that deputies who are not elected members of the municipal council are *ex officio* members of the municipal council and have advisory capacity.

4. Relations between central and local authorities

Nigerien law provides for decisions made by local authorities to come into immediate effect. State representatives have control over the *a posteriori* legality of the actions of municipal authorities.

The State's trusteeship over decentralised authorities is carried out through its representatives to ensure control of legality. It has control over:

- the actions of decentralised authorities: decisions made by the municipal councils, decrees passed by the mayor
- local authority budgets: Law 2002-012 sets out the various methods of budgetary control
- authority bodies and staff

In the absence of a sub-prefect in municipalities, control is provisionally undertaken by the prefects. Trusteeship relates to all actions taken by local authorities that come into full effect as soon as they are published or the parties concerned have been informed and they are transmitted to the State representative.

The State representative can ask that actions it considers illegal be delayed or amended. When decentralised authorities refuse to do so, it can refer them to the administrative court, which settles the

dispute. According to Article 4 of Decree 99-033, the adjudicator's decision must be made within two months of receiving the return mail from the decentralised authority stating that it refuses to delay or modify the incriminated action, or four months from the date of the request to delay or modify the action if no action has been taken. In addition, the State representative can put forward a request to suspend the act being carried out before the judge.

However, we must note that this control mechanism is often purely theoretical, because prefects and their representatives often lack the responsibilities and powers allowing them to go beyond this. This is one of the current difficulties in exercising control over legality. Another issue is the lack of administrative courts set out by the law. The existing ordinary courts do not have the necessary powers, in most cases. This is why the State, with support from development partners, has developed an extensive programme to give support to reforming the judicial system (*Programme d'Appui à la Réforme du système Judiciaire – PARJ*), which is starting to be put into effect at the moment.

Budgetary control relates to format (structure, nomenclature), registering mandatory expenditure (personnel, debt repayments, fees to maintain assets, etc.) and operational and investment budgets and balances (actual revenue, actual expenditure).

At the end of each year, authorities also send their administrative and financial accounts to the State Audit Office to check.

The law clearly provides for the process for disbanding municipal councils. When it is no longer possible for a council to operate, the government can, following consultation with the Constitutional Court, disband a council by decree taken at the Ministers



Council, the deliberative body of the authority in question. In this instance, the State representative with power at this level replaces the council to deal with the day-to-day matters until a new council is put in place by means of an election.

In addition, the trusteeship authority can suspend council leaders (mayors, etc.). In this way, when a council decides to suspend its leader due to evident misconduct or gross negligence with a majority of 2/3 elected members, the State representative draws up a document to make it official. Up until this point there have been a few instances of mayors being suspended (3 or 4).

5. Financing for local authorities

Municipalities in Niger generally have two sources of funding: allocations from the State and taxes.

With regard to State allocations, the law does not specify a set amount in the State budget. There have also been delays in implementing these allocations. Studies have been commissioned by the High Commission for the Modernisation of the

State for the implementation of these funds.

The law provides for the State to transfer taxes to local authorities. In this way, the State gives municipalities all or part of taxes and remunerative duties that they are required to collect on the State's behalf when all or part of the services that the taxes or duties relate to are carried out by them.

There are also shared taxes, where local authorities generally receive the congruent amount. This is the case for the new budget law, which, for certain types of revenue, affects 80% of the State budget and 20% of local authority budgets.

Councils can create remunerative duties, which pay for a service carried out by the region, department or municipality that is at the personal and exclusive benefit of the taxpayer. The service can be mandatory or optional. The law grants municipal councils the possibility of adding tax surcharges to State charges and taxes, the lists and maximum rate of which are determined by law. But collection of the tax surcharges on State charges and taxes is carried out at the same time as the main tax or charge. The amount is transferred directly to the

Table 2: Local finances in 2003

Baseline indicators (in CFA francs)	up to 50,000 inh	50- 100,000 inh.	More than 100,000 inh.	Niamey	Niger
Local operational revenue per inhab	1,746	1,332	1,302	4,671	2,665
Tax revenue per inhab	906	840	860	3,088	1,702
Municipal charges per inhab	11	30	34	187	86
Tax revenue / Actual operational revenue	52%	63%	66%	66%	64%
Personnel costs / Operational revenue	33%	36%	33%	21%	25%
Savings capital capacity	15%	8%	8%	6%	8%
Facilities expenditure / inhab	621	285	403	2,966	1,388



municipality. The table below outlines the structure of local budgetary resources, but fiscal resources mix those that come from shared taxes with autonomous taxes, the rates of which are low.

Source (Observatory on Local Finances – PDM). The indicators are in CFA francs.

Overall, the collection rate for local revenue is still below the necessary level to cover the needs of municipalities. It rarely goes above 32%. There are many reasons for this poor collection rate: the lack of sense of civic responsibility in terms of fiscal issues, the lack of an adequate collection method, carelessness of employees, corruption, influence peddling, poor management of the allocation transferred back by the directorate of taxes (DGI), the lack of market infrastructure, the lack of initiative to seek funding and poor financial management.

6. Local responsibilities and powers

Law 2002-013 of 11 June 2002 is dedicated to transferring responsibilities and powers to local authorities. These are many responsibilities and powers and they are diverse in nature.

The Nigerien legislature provides for responsibilities and powers to be transferred in blocks. However, all responsibilities and powers have not yet been transferred from the State to local authority beneficiaries. At a general level, responsibilities and powers relating to defining regional development policies and their coherence with national policies are assigned to regions; departments have responsibilities and powers over implementation and coordination and municipalities are responsible for essential services relating to their area.

As regions and departments (local authorities) have not yet been put in place, we have indicated the responsibilities and powers of municipalities in the table above. Also, most of the developments that will follow only relate to municipalities.

Aside from essential services, many responsibilities and powers of local authorities were transferred by means of legal documentation, which dates back to before the present reform.

7. Local staff management

The illiteracy level of the majority of councillors, at a general level, the lack of training of all locally elected representatives and the impossibility for municipalities to look after their own technical services in the mid-term has long given executives from decentralised technical services, and from support projects and programmes, great influence over municipal decisions, particularly in relation to investment. As a result, local authorities have experienced reduced autonomy.

The most important civil servants are the Secretary General at the regional, departmental and urban community levels, and the tax collector. However, local authorities have the power to create services and local public establishments, and can take on other personnel to take charge of leading these services or establishments. The functions of the Secretary General and the tax collector are incompatible.

The Secretary General is appointed by decree from regional, departmental or urban community council leaders or from the mayor, following discussions with the council, from the civil administrators whose



qualifications are equal to civil service band A.

In rural municipalities, where there are no civil administrators at this level, an administrator with qualifications that correspond to civil service band B can be appointed as Secretary General.

The Secretary General attends local council meetings, where he/she represents the secretariat. The Secretary General comes under the authority of the local executive body and is the hierarchical leader of administrative and technical staff of the authority in question. In this way, he/she is in charge of monitoring and coordinating technical services, monitoring financial management of facilities and personnel, giving support and acting as an advisor. In addition, he/she assists the local executive body in preparing the budget, the administrative account and all other ongoing management activities, and in implementing of the budget.

The tax collector's duties are completely separate from the role of accountant or specialist agent of the State. The tax collector carries out the role of public accounting officer at local authority level. He/she is appointed by decree from the regional, departmental or municipal council leader, following consultation with the council, from the local authority's financial officials or agents who are specialised in public accounting or public administration and whose qualifications are equal to those of civil service band B. The tax collector has the position of main accountant.

In this way, tax collectors are authorised to carry out collection of money and payment of expenditure relating to the regional, departmental and municipal budgets. They help the leaders of their respective council with revenue collection. They have sole responsibility for material management of

the council's fund and managing money and assets placed in their fund.

In order to deal with the severe lack of Human Resources, in terms of both quantity and quality, within local authorities, the law provides for the State's decentralised technical services to be made available to local authorities.

Thus, in addition to their traditional role and using the human and material resources available to them, the State's decentralised services have the task of giving backing to, advising and supporting local authorities. In this way, in order to achieve their goals, local level authorities and their entities have the right to request to benefit from the State decentralised technical services whose responsibilities and powers relate to them. In concrete terms, when local authorities and their entities request these benefits, they submit a request to the State representative for this support to be at their disposal accompanied by their annual activities programme, including the actual actions to carry out and what they require the requested help with.

This request is considered in the first two months of the budget being operational during a scheduling meeting, where the State representative and the council leader set out and agree the activities that the State's decentralised technical services must lead on behalf of the authority in question. It also includes the methods of operation, the nature of the work, the length of time they will be available, details on the required means and resources, a workload calendar and all other duties of each party. Once this has taken place, the heads of the State's decentralised services provide local authorities in their area of responsibility all the reports, information, statistics, studies and documentation necessary to prepare and carry out their discussions, actions and decisions.



8. Conclusion

The organisation of the 24 and 25 July 2004 municipal elections marked a decisive step forwards for democracy in general, and decentralisation in particular, in Niger. More than thirty political parties and independent candidate groups were involved in the ballot.

Since 2005, the High Commission for the Modernisation of the State has been established instead of and in place of the High Commission for Administrative Reform and Decentralisation. Alongside the High Council of Local Authorities' Inter-ministerial Committee on Decentralisation and the Ministry for National Planning and Community Development, the High Commission maintains the role of its predecessor. Consequently, the institution is seen as a bastion in the move towards decentralisation, and with authority status as its goal. In this way, the High Commission carries out research work all the more so as attempts are still being made to improve legislation.