

**LAW 2015-36 AGAINST “ILLEGAL” SMUGGLING OF MIGRANTS:  
EFFECTS ON MIGRATION ROUTES AND ON THE AGADEZ REGION  
SIX YEARS AFTER ITS ENTRY INTO FORCE**

The effects of the entry into force of [Law 2015-36](#) against the illegal smuggling of migrants have been investigated by ASGI since its previous missions to Niger, starting with the November 2018 mission. The [report](#) on that mission states that even institutional representatives referred to this law as “Valletta Law”, which proves that from the time the law was approved it was perceived as an evident expression of the will of the EU Member States to limit the flow of people from Niger to Libya and Algeria, looking to Europe as their final destination. Since its entry into force, this law has been the subject of several studies and analyses because it symbolises the impact of EU externalisation policies on third countries and migrants. The mission carried out in Agadez in December 2021 confirmed that Law 2015-36 and its adverse effects on the local economy are still strongly perceived as created by (or rather blameable on) the EU even six years on from its passing. Niger reportedly wanted to play the “*gendarme du monde*” (policeman of the world) in an attempt to show the EU that it was its good pupil (*bon élève*).

*The expressions “bon élève de l’Union” and “gendarme du monde” were used by journalist Ibrahim Manzo Diallo (Sahara FM and Air Info), who was interviewed by ASGI’s delegation at the Agadez-based radio station. The journalist added another of his suggestive images which immediately captured our attention. He told us that all the convoys and vehicles seized from smugglers are stored in a place where diplomats and representatives of European and other African countries are taken on visit to see with their own eyes how successful the Nigerien government is in stopping the illegal smuggling of migrants to Europe.*

Our visit to Agadez also made us realise that the local population was neither involved in nor informed of the entry into force of this law.

*On the morning of 5<sup>th</sup> December 2021, we spoke with Bachir Ama, chairman of the Committee of Former Migration Service Providers, in his residence in the centre of Agadez. Bachir told us that, before the law came into force, the convoys transporting migrants, which were duly registered and legally operating with a “feuille de route” listing passengers’ and driver’s names, left for Libya every Monday morning. One Monday morning in February 2016, the army seized all departing convoys without prior notice and without informing the local authorities. They arrested the drivers and the service providers although they had been working openly and with the explicit consent of the authorities until the day before. Law 2015-36 was enforced in Agadez overnight, with no prior notice, and it turned hundreds, or more likely thousands of people into criminals who up to that point had been carrying out a perfectly legal and highly profitable business.*

Law 36 was examined from several different angles, ranging from its incompatibility with the right to freedom of movement within the Economic Community of West African Countries<sup>1</sup> to the blatant violation of the spirit of the 2000 Palermo Protocol against migrant smuggling<sup>2</sup> resulting from the implementation of the law. The interviews conducted during our mission in Agadez especially highlighted that this law completely failed to achieve the objectives that the EU set itself through a gradual externalisation of its immigration and asylum policies, in particular the goal of containing migratory flows and, in the long term, fighting the root causes of immigration. What emerged during the mission is that migration routes are not closed at all and continue to attract migrants who undertake increasingly expensive and dangerous journeys. Moreover, the sudden and

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<sup>1</sup> See, inter alia, Ibrahim Muhammad Mukhtar in the proceedings of a conference held in Lagos in February 2020 at [https://sciabacaoruka.asgi.it/wp-content/uploads/2020/09/IBRAHIM-MUHAMMAD-MUKHTAR\\_ECOWAS-free-movement-area.pdf](https://sciabacaoruka.asgi.it/wp-content/uploads/2020/09/IBRAHIM-MUHAMMAD-MUKHTAR_ECOWAS-free-movement-area.pdf).

<sup>2</sup> See, in particular, “Smuggling of migrants: The misused spirit of the Palermo Protocol in the light of the Nigerien experience”, a post by Delphine Perrin published in the Oxford University Press blog on 25<sup>th</sup> May 2020, <https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2020/05/smuggling>.

dramatic impoverishment of the region and the failure of plans to integrate and support migration-related activities motivated many residents of the region to move to Libya or Algeria to look for work in order to support their families. This turned Niger into a new potential “migration-producing” country, which is in open contrast with the objective of reducing the so-called “push factors” of migration flows.

### **Migration routes still open and more expensive and dangerous**

All the people interviewed in Agadez – be they migrants or representatives of NGOs, international organisations or institutions – unanimously confirmed that routes across the desert towards Algeria and Libya are still open and have multiplied in order to avoid checkpoints. The enforcement of the law has had profound effects on the organization of journeys and on the conditions of migrants, both along the itinerary that leads from the southern and western borders to Agadez and along the routes across the desert.

As for the first part of the journey, it has been noticed that the number of checkpoints along Niger’s main thoroughfares – Tahoua-Agadez and Zinder-Agadez – have greatly increased since 2015. Migrants interviewed during the visit to Agadez recounted that all foreigners, including ECOWAS citizens who are entitled to move freely, are subjected to abuse and harassment during checks at road blocks. In particular, officials generally ask them to pay between 15,000 and 20,000 francs to continue their journey. If migrants do not have the money requested or refuse to pay, they have to get off and are not allowed to continue their journey. In some cases, foreigners were arbitrarily held until they were sent the money for the authorities. Some migrants interviewed in a ghetto in Agadez recounted that, in some cases, women who started the journey but could not pay the money requested were raped by officials.

As regards routes across the desert from Agadez to Libya and Algeria, the need to avoid checkpoints, which requires deep knowledge of the desert, led to this route being controlled above all by Tuareg and Tebu smugglers. The routes used to transport migrants are often the same used for drug trafficking and both illegal activities increasingly tend to overlap<sup>3</sup>. In addition to routes towards Dirkou on the way to Libya and towards Assamaka on the way to Algeria, new routes have been created towards Chad.

Fares charged have tripled, with the average cost being reportedly at around 500,000 CFA francs, which correspond to around €760, whereas before 2015 they were charged 150,000 CFA francs. This price increase is due in particular to the presence of many checkpoints and the need to pay bribes to checkpoint officers to get through.

Crossing the desert is also very dangerous because vehicles travel mostly at night when checkpoints are unmanned and temperatures can even drop below zero. Moreover, unlike before the enforcement of the law, the new smugglers handle their business ruthlessly, often force migrants to get off the vehicles in the middle of the desert and abandon them there if they do not have the money to continue the journey.

*Bachir Ama explained that, before the enforcement of Law No. 36, the immigration business was regulated and governed according to the most common market rules, which require the satisfaction of both customers and business partners. If a smuggler ill-treated a migrant, the latter informed the agent he had contacted and this in turn informed the other partners involved along the route (managers of ghettos, people handling documents, vehicle owners and drivers, and so on) to make sure that this smuggler was forced out of business. Unhappy customers would not bring more customers. The need to get good publicity made the route safer and more controlled. Now that management of the route is concentrated in few hands, those few have no interest in behaving according to rules and no qualms about putting the lives of migrants in danger.*

Search and rescue missions in the desert fall within the competence of IOM. Many of the NGOs we spoke to periodically carry out missions along migration routes in order to rescue migrants in distress.

*We spoke to one of Alarm Phone Sahara’s representatives on a Saturday morning during a community lunch at the headquarters of the organization. He had just come back from a brief mission to the Dirkou area and he told us how dramatic the situation was.*

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<sup>3</sup> See Chapter 2 of the Clingendael Report 2018, “Effects of EU policies in Niger”, <https://www.clingendael.org/pub/2018/multilateral-damage/2-effects-of-eu-policies-in-niger/>

*Médicins Sans Frontières operates a hotline that migrants can call to request rescue. The representative we interviewed told us that calls were often placed by the smugglers themselves who told MSF the location where they had abandoned the migrants in the desert.*

The implementation of the law seemingly had the effect of making migration routes more dangerous but certainly not of disrupting them.

### **The devastating economic effects on the Agadez region and the failure of funds for “reintegrating” smugglers**

Before transporting migrants became illegal<sup>4</sup>, the economy in the Agadez region was almost entirely based on the lucrative “migration business” which could yield weekly earnings of up to €2,000 or 3,000<sup>5</sup>. After the law was implemented, a plan to support and reintegrate former migration service providers was developed, again with EU funds. These former service providers told us that this plan was ineffective. In order to access the plan, they were required to submit an application to start a new business. Only a very small percentage of the applications were examined and successful. Some of the former service providers reported that access to funds was granted even to people who did not qualify as recipients since they had never been in the migrant transport business. Moreover, the aid offered was not paid in cash but rather in goods and services which the applicants declared they needed in order to start their new businesses. The former service providers also object that the amount paid was much lower than expected because the price of goods and services had been overstated by the administration.

The people of Agadez were deprived of their main source of income. More and more often residents of the region go to neighbouring countries to seek work. Even in this respect, the implementation of the law turned out to be a complete failure.

Further doubts arose during the mission about compliance with international standards on the protection of fundamental rights during the arrest of former service providers accused of migrant smuggling and during court proceedings.

*A Tuareg former service provider told us his experience. Following the implementation of the law, he and his family decided to stop the business they were well-known for in the region. However, a few months later, he found military officers in his home, some in uniform and some in plain clothes. Some of them, he added, were white. The military searched his home and, after many hours, without any explanation they forced him into a car where he was blindfolded. The car travelled all night towards Niamey. The Tuareg boy was taken to a building at an unknown address and he was questioned for more than ten days to make him confess his involvement in the smuggling and the names of the other smugglers. During this period he was not allowed to see a lawyer and he was not brought before a court of law.*

*After his questioning, he was taken to jail in Niamey where he was detained for six months pending trial. At the end of summary proceedings lasting only a few hours he was convicted on the basis of a confession he had never made and sentenced to one year imprisonment.*

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<sup>4</sup> As already mentioned in previous reports, the enforcement of Law 2015-36 in the Agadez region criminalised acts which can hardly be subsumed under the criminal offence provided for in the Law itself. In most cases, transport services in the region did not include any border crossing and in any case passengers were entitled to free movement because they were ECOWAS citizens.

<sup>5</sup> This is what we were told by members of the Committee of Former Migration Service Providers. For more info, see the Clingendael Report quoted above and retrievable at: <https://www.clingendael.org/pub/2018/multilateral-damage/2-effects-of-eu-policies-in-niger/>.