



# OPERATIONAL GUIDANCE NOTE

## IVORY COAST

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### 1. Introduction

- 1.1** This document evaluates the general, political and human rights situation in Ivory Coast and provides guidance on the nature and handling of the most common types of claims received from nationals/residents of that country, including whether claims are or are not likely to justify the granting of asylum, Humanitarian Protection or Discretionary Leave. Case owners must refer to the relevant Asylum Instructions for further details of the policy on these areas.
- 1.2** This guidance must also be read in conjunction with any COI Service Ivory Coast Country of Origin Information at: [http://www.homeoffice.gov.uk/rds/country\\_reports.html](http://www.homeoffice.gov.uk/rds/country_reports.html)
- 1.3** Claims should be considered on an individual basis, but taking full account of the guidance contained in this document. In considering claims where the main applicant has dependent family members who are a part of his/her claim, account must be taken of the situation of all the dependent family members included in the claim in accordance with the Asylum Instructions on Article 8 ECHR. If, following consideration, a claim is to be refused, case owners should consider whether it can be certified as clearly unfounded under the case by case certification power in section 94(2) of the Nationality Immigration and Asylum Act 2002. A claim will be clearly unfounded if it is so clearly without substance that it is bound to fail.

#### Source documents

- 1.4** A full list of source documents cited in footnotes is at the end of this note.

## **2. Country assessment**

- 2.1** Ivory Coast gained independence from France in 1960. Felix Houphouët-Boigny became the first President and ruled for 33 years until his death in 1993. His party, the Democratic Party of Côte d'Ivoire (Parti Démocratique de la Côte d'Ivoire - PDCI), was the sole legal party until 1990. The first multi-party elections since independence were held in 1990, which Houphouët-Boigny easily won against veteran opposition leader Laurent Gbagbo of the Ivorian Popular Front (Front Populaire Ivoirien - FPI). At his death in 1993, Houphouët-Boigny was succeeded by Henri Konan Bedie, the speaker of the National Assembly. The careful ethnic and regional balance which Houphouët-Boigny had nurtured, together with his welcoming of immigrant workers, was soon compromised by the concept of 'Ivoirite' (Ivorian nationalism), which quickly acquired xenophobic connotations. This began a sequence of events which was to deprive the country of its long record of stability and prosperity.<sup>1</sup>
- 2.2** Soon after Bedie took over, the ruling PDCI split. In 1994, the then Prime Minister, Allasane Ouattara, joined the breakaway party, Rally of the Republicans (Rassemblement des Républicains - RDR). Ouattara and the RDR increasingly came to be seen as representatives of the north of the country. Ouattara's exclusion from running in subsequent elections came to symbolise the increasingly acrimonious and violent social problems of migrant labour, ethnic divisions and citizenship. In December 1999, General Robert Guéï led the country's first ever military coup. A new constitution was approved by referendum in July 2000, but under chaotic and violent conditions. In October 2000, opposition leader Laurent Gbagbo won the presidential election, Bedie and Ouattara having been barred from running. The acrimonious debate around nationality and citizenship continued, now added to by debate around the legitimacy of Gbagbo's electoral victory.<sup>2</sup>
- 2.3** On 19 September 2002, an attempted coup took place. It failed, but rebels gained control of the northern half of the country. They expressed dissatisfaction at retirement plans for the army, and expressed grievances over the Government's treatment of northerners. A cease-fire was signed in May 2003, followed by a protracted stand off between rebel and loyalist forces. A series of negotiations followed over a period of nearly five years, involving, at different points, the mediation efforts of France, Ghana, South Africa and the African Union. An international contact group met monthly to discuss the problem from November 2005 to February 2007. Various formulations of unity governments have been tried, offering ministerial posts to former rebels (now called the New Forces/Forces Nouvelles) and political opposition. No progress was made during this time on the key two issues the country faces; disarmament of the former rebels and other militia, and the identification of the population and establishment of credible and accepted electoral lists.<sup>3</sup>
- 2.4** In April 2004, a United Nations mission (UNOCI) was established, with the French 'Licorne' force taking the role of rapid deployment support. In November 2004, government forces attempted to attack the New Forces (Forces Nouvelles - FN) across the cease-fire line. On 6 November 2004, government planes bombed French positions, killing nine French peacekeepers. The French retaliated by destroying the Ivorian air force. Riots ensued across Abidjan, targeting French nationals and the French army. Around 8,000 French nationals were evacuated or subsequently left.<sup>4</sup>
- 2.5** In March 2007, the Ouagadougou Agreement was signed between President Gbagbo and the leader of the FN, Guillaume Soro, under which Soro became Prime Minister of a

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<sup>1</sup> Home Office Country of Origin Information (COI) Service Country of Origin Information Key Documents November 2007: Ivory Coast (Background Information on Ivory Coast: Recent History), Foreign and Commonwealth Office (FCO) Country Profile 2008 & British Broadcasting Corporation (BBC) News Timeline: Ivory Coast

<sup>2</sup> FCO Country Profile 2008 & BBC News Timeline: Ivory Coast

<sup>3</sup> COI Key Documents November 2007: Ivory Coast (Background Information on Ivory Coast: Recent Events and Political Developments), FCO Country Profile 2008, BBC News Timeline: Ivory Coast & U.S. Department of State report on Human Rights Practices (USSD) 2007: Côte d'Ivoire (Introduction)

<sup>4</sup> FCO Country Profile 2008

transitional government. The Ouagadougou Agreement also called for the disarmament of armed factions, reunification of the country, identification of Ivorians, and 2008 presidential elections. The formal division between the rebel-held north and the Government-held south ended and the country was officially re-united in April 2007. Significant progress has been made on the identification of the population, but voter registration is taking longer than scheduled. The disarmament and dismantling of militias and the reunification of the armed forces has reportedly stalled. Former rebels in the north began disarming in May 2008, but the long awaited presidential elections have been delayed.<sup>5</sup>

- 2.6** The Government's human rights record has improved, but reported abuses in 2008 included the disproportionate use of force by the police during law enforcement operations; racketeering; torture; and ill-treatment. Human Rights Watch reported that in 2008 members of the police, gendarmerie, army, and customs engaged in acts of extortion, intimidation, and physical assault at roadside checkpoints, and sexual violence against girls and women, often with impunity. Similar abuses were reportedly committed at roadside checkpoints by FN rebels in 2008, as was violence against women. Marked by the persistence of impunity, arbitrary arrests and detentions, and instances of murder, torture, ill-treatment, and forced disappearance were also reported in FN-controlled areas during the year.<sup>6</sup>

### **3. Main categories of claims**

- 3.1** This Section sets out the main types of asylum claim, human rights claim and Humanitarian Protection claim (whether explicit or implied) made by those entitled to reside in Ivory Coast. It also contains any common claims that may raise issues covered by the Asylum Instructions on Discretionary Leave. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/ punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal relocation are set out in the relevant Asylum Instructions, but how these affect particular categories of claim are set out in the guidance below.
- 3.2** Each claim should be assessed to determine whether there are reasonable grounds for believing that the applicant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in *Karanakaran* should be followed when deciding how much weight to be given to the material provided in support of the claim (see the Asylum Instruction on Considering the Asylum Claim).
- 3.3** If the applicant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the applicant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on the individual circumstances.
- 3.4** This guidance is **not** designed to cover issues of credibility. Case owners will need to consider credibility issues based on all the information available to them. For guidance on credibility see the Asylum Instructions on 'Considering the Asylum Claim' and 'Assessing

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<sup>5</sup> United Nations Security Council (UNSC): Eighteenth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire (Sections II & VI), FCO Country Profile 2008, BBC News Timeline: Ivory Coast, Human Rights Watch (HRW) World Report 2009: Côte d'Ivoire, BBC News 'Ivorian voter registration halted' dated 24 October 2008, IRIN: Côte d'Ivoire 'November poll officially cancelled, new date to be announced' dated 11 November 2008 & USSD 2007: Côte d'Ivoire (Introduction)

<sup>6</sup> HRW World Report 2009: Côte d'Ivoire, UNSC: Seventeenth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire (Section VI) & UNSC: Eighteenth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire (Section IX)

Credibility in Asylum and Human Rights Claims’.

- 3.5** All Asylum Instructions can be accessed via the Horizon intranet site. The instructions are also published externally on the Home Office internet site at:  
<http://www.ukba.homeoffice.gov.uk/documents/asylumpolicyinstructions/>
- 3.6 Members of the Rally of the Republicans (Rassemblement des Republicains - RDR)**
- 3.6.1** Many applicants may apply for asylum based on ill-treatment amounting to persecution at the hands of the state authorities or groups loyal to President Gbagbo due to their membership of, involvement with, or perceived involvement with the RDR.
- 3.6.2 *Treatment.*** In 1994, the ruling PDCI split and the then Prime Minister, Allasane Ouattara, joined the breakaway party, the RDR. The party increasingly came to be seen as representatives of the north of the country, and Ouattara’s exclusion from running in subsequent elections came to symbolise the increasingly acrimonious and violent social problems of migrant labour, ethnic divisions and citizenship. In 2000, for example, Ouattara was excluded from running in the presidential and legislative elections following the Supreme Court’s ruling that he had not demonstrated conclusively that he was of Ivorian parentage.<sup>7</sup>
- 3.6.3** In 2007, unlike in previous years, the security forces did not arrest RDR party members, officials or persons of northern origins thought to be close to the rebellion. There were no reports that RDR members had difficulties associating freely, nor were there reports that security forces harassed and detained RDR members who tried to meet. Following the signing of an amnesty law in April 2007, several members of the RDR returned from self-imposed exile due to death threats. Also in April 2007, five positions were appointed to the RDR in Prime Minister Soro’s new power sharing transitional government.<sup>8</sup>
- 3.6.4** In August 2008, groups of youth loyal to the ruling party stormed a hotel in the south-east of the country in which the RDR’s Secretary-General, Henriette Diabaté, was staying while campaigning in the area. The group attempted to attack the party’s delegation and followers, but Mrs.Diabaté was able to return to Abidjan safely with the help of the security forces.<sup>9</sup>
- 3.6.5 *Sufficiency of protection.*** As this category of applicants’ fear is of ill-treatment/persecution by the state authorities or groups loyal to President Gbagbo, they cannot apply to the authorities for protection.
- 3.6.6 *Internal relocation.*** Although members of the security forces and other government agencies reportedly engage in acts of extortion, intimidation, and physical assault at roadside checkpoints, the Government generally does not prevent internal travel or freedom of movement. Furthermore, the Zone of Confidence, which divided the rebel-held north and the Government-held south for almost four years, was dismantled following the peace agreement of March 2007.<sup>10</sup> In the light of recent political developments, case owners should assess on an individual case by case basis whether internal relocation is a viable option for RDR members who fear mistreatment at the hands of the state or groups loyal to President Gbagbo.

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<sup>7</sup> FCO Country Profile 2008 & USSD 2007: Côte d’Ivoire (Section 3)

<sup>8</sup> USSD 2007: Côte d’Ivoire (Sections 1 & 2), USSD 2006: Côte d’Ivoire (Sections 1 & 2) & IRIN: Cote d’Ivoire ‘New government formed’ dated 9 April 2007

<sup>9</sup> HRW World Report 2009: Côte d’Ivoire & UNSC: Eighteenth progress report of the Secretary-General on the United Nations Operation in Côte d’Ivoire (Section II)

<sup>10</sup> USSD 2007: Côte d’Ivoire (Section 2), HRW World Report 2009: Côte d’Ivoire, UNSC: Seventeenth progress report of the Secretary-General on the United Nations Operation in Côte d’Ivoire (Section II) & UNSC: Eighteenth progress report of the Secretary-General on the United Nations Operation in Côte d’Ivoire (Sections III & VI)

### 3.6.7 *Caselaw.*

**GG (political oppositionists) Ivory Coast CG [2007] UKAIT 00086.** The Asylum and Immigration Tribunal (AIT) found:

- Political oppositionists in the Ivory Coast (including members of the RDR) do not in general face a real risk of persecution or serious harm or ill-treatment on return.
- For a political oppositionist who is a high-ranking member or an activist, the position may well be different, at least so far as risk in that person's home area is concerned. That is so whether he or she is a member of the RDR, the northern-based FN or some other oppositionist party or organisation.
- A person who is not a member but merely a supporter of the RDR or the FN (or other oppositionist party or organisation) may, depending on the circumstances, be at real risk if he or she is also an activist.
- In the context of deciding cases involving persons claiming to be at risk because of their actual or perceived membership of, or support for, political opposition parties or groups, the existence of certain other factors (being a northerner, being a Muslim and being a West African immigrant) may raise the level of risk, although whether they raise it enough to cross the threshold of persecution or serious harm or ill-treatment will depend on the particular facts of the case. Even in combination with a low or medium-level political profile as an oppositionist, such factors will not normally give rise to real risk.
- Political oppositionists who are able to give a credible account of risk in their home area will in general be able to avoid a real risk of further persecution or serious harm or ill-treatment by relocating.
- **AZ (Risk on return) Ivory Coast CG [2004] UKIAT 00170**, remains valid as country guidance for the period up to 4 May 2004. **DI (Ivory Coast) CG [2002] UKIAT 04437** remains a relevant source of guidance on FGM-related claims.

**AZ (Ivory Coast) CG [2004] UKIAT 00170** (valid as country guidance up to 4 May 2004). Risk on return for low-level RDR member. The Tribunal did not find that returning RDR members and supporters would be at real risk of persecution on return (paragraph 54). It also considered a UNHCR position paper of January 2004 which does not provide compelling evidence that someone internally displaced in Abidjan would be at risk of ill-treatment amounting to a breach of Article 3 (paragraph 63).

**3.6.8 Conclusion.** The RDR is one of the main opposition groups to play a major role in opposition political activity. It is a registered party and holds five positions within Prime Minister Soro's Cabinet. As stated in **GG**, members of the RDR do not in general face a real risk of persecution, serious harm or ill-treatment on return to Ivory Coast. Furthermore, the AIT found in **GG** that those who are able to give a credible account of risk in their home area will in general be able to avoid a real risk of persecution, serious harm or ill-treatment by relocating. The grant of asylum in such cases is therefore not likely to be appropriate.

### 3.7 **Members of the New Forces (Forces Nouvelles – FN)**

**3.7.1** Applicants may apply for asylum based on ill-treatment amounting to persecution at the hands of the state authorities or groups loyal to President Gbagbo due to their membership of, involvement with, or perceived involvement with the FN.

**3.7.2 Treatment.** The FN are comprised of three former rebel groups that emerged in 2002; the Patriotic Movement of Ivory Coast (MPCI), the Ivorian Popular Movement of the Far West (MPIGO) and the Movement for Peace and Justice (MJP). In March 2007, the Ouagadougou Agreement was signed between President Gbagbo and the leader of the FN, Guillaume Soro, under which Soro became Prime Minister of a transitional government.

The Ouagadougou Agreement also called for the disarmament of armed factions, reunification of the country, identification of Ivorians, and 2008 presidential elections. The formal division between the rebel-held north and the Government-held south ended and the country was officially re-united in April 2007. Significant progress has been made on the identification of the population, but voter registration is taking longer than scheduled. The disarmament and dismantling of militias and the reunification of the armed forces has reportedly stalled. Former rebels in the north began disarming in May 2008, but the long awaited presidential elections have been delayed.<sup>11</sup>

**3.7.3** Arbitrary arrests and detentions; and instances of murder, torture, ill-treatment, and forced disappearance were reported in FN-controlled areas during 2008. Government forces and FN rebels reportedly also continue to engage in extortion at checkpoints and sexual violence against girls and women.<sup>12</sup>

**3.7.4** **Sufficiency of protection.** As this category of applicants' fear is of ill-treatment/persecution by the state authorities or groups loyal to President Gbagbo, they cannot apply to the authorities for protection.

**3.7.5** **Internal relocation.** Although members of the security forces and other government agencies reportedly engage in acts of extortion, intimidation, and physical assault at roadside checkpoints, the Government generally does not prevent internal travel or freedom of movement. Furthermore, the Zone of Confidence, which divided the rebel-held north and the Government-held south for almost four years, was dismantled following the peace agreement of March 2007.<sup>13</sup> In the light of recent political developments, case owners should assess on an individual case by case basis whether internal relocation is a viable option for FN members who fear mistreatment at the hands of the state or groups loyal to President Gbagbo.

**3.7.6 Caselaw.**

**GG (political oppositionists) Ivory Coast CG [2007] UKAIT 00086.** The Asylum and Immigration Tribunal (AIT) found:

- Political oppositionists in the Ivory Coast do not in general face a real risk of persecution or serious harm or ill-treatment on return.
- For a political oppositionist who is a high-ranking member or an activist, the position may well be different, at least so far as risk in that person's home area is concerned. That is so whether he or she is a member of the RDR, the northern-based FN or some other oppositionist party or organisation.
- A person who is not a member but merely a supporter of the RDR or the FN (or other oppositionist party or organisation) may, depending on the circumstances, be at real risk if he or she is also an activist.
- In the context of deciding cases involving persons claiming to be at risk because of their actual or perceived membership of, or support for, political opposition parties or groups, the existence of certain other factors (being a

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<sup>11</sup> UNSC: Eighteenth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire (Sections II & VI), FCO Country Profile 2008, BBC News Timeline: Ivory Coast, HRW World Report 2009: Côte d'Ivoire, BBC News 'Ivorian voter registration halted' dated 24 October 2008, IRIN: Côte d'Ivoire 'November poll officially cancelled, new date to be announced' dated 11 November 2008 & USSD 2004: Côte d'Ivoire (Introduction)

<sup>12</sup> HRW World Report 2009: Côte d'Ivoire, UNSC: Seventeenth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire (Section VI) & UNSC: Eighteenth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire (Section IX)

<sup>13</sup> USSD 2007: Côte d'Ivoire (Section 2), HRW World Report 2009: Côte d'Ivoire, UNSC: Seventeenth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire (Section II) & UNSC: Eighteenth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire (Sections III & VI)

northerner, being a Muslim and being a West African immigrant) may raise the level of risk, although whether they raise it enough to cross the threshold of persecution or serious harm or ill-treatment will depend on the particular facts of the case. Even in combination with a low or medium-level political profile as an oppositionist, such factors will not normally give rise to real risk.

- Political oppositionists who are able to give a credible account of risk in their home area will in general be able to avoid a real risk of further persecution or serious harm or ill-treatment by relocating.

**3.7.7 Conclusion.** Following the Ouagadougou Agreement, Guillaume Soro, the leader of the FN, became Prime Minister. As stated in **GG**, political oppositionists do not in general face a real risk of persecution, serious harm or ill-treatment on return to Ivory Coast. Furthermore, the AIT found in **GG** that those who are able to give a credible account of risk in their home area will in general be able to avoid a real risk of persecution, serious harm or ill-treatment by relocating. The grant of asylum in such cases is therefore not likely to be appropriate.

**3.7.8** Case owners should note that members of the FN have been responsible for serious human rights abuses. If it is accepted that an applicant was an active operational member or combatant for the FN and the evidence suggests he/she has been involved in such actions, then case owners should consider whether one of the Exclusion clauses is applicable. Case owners should refer all such cases within this category of claim to a Senior Caseworker in the first instance.

### **3.8 Non-Ivoriens and/or Muslims from the north**

**3.8.1** Some applicants may apply for asylum based on societal discrimination or state-sponsored ill-treatment amounting to persecution due to them being of immigrant origin or belonging to an ethnic or religious group considered to be non-Ivorian. On a national level, the conflict is essentially between Muslim and/or 'non-citizen' immigrants in the north and the pro-Gbagbo mainly Christian population in the south.

**3.8.2 Treatment.** Ivory Coast is home to sixty ethnic groups, including the Akan, of which the Baoule is the largest sub-group, the Senoufou, the Mande/Dioula, the Krou and the Yacouba. At least a quarter of the population is foreign. Outdated or inadequate land ownership laws have resulted in conflicts with ethnic and xenophobic overtones.<sup>14</sup>

**3.8.3** In December 2004, the National Assembly made changes to the nationality code and adopted a Special Law on Naturalisation, legislation that was envisioned by the Marcoussis Accord to resolve the dispute over which persons born of foreign parents before 1972 should be entitled to citizenship and to simplify procedures to obtain citizenship for this group and for foreigners married to citizens. The legislation that was eventually passed resolved the citizenship question for those born before 1960 but not for those born between 1960 and 1972. In July and August 2005, the President signed new drafts of laws on nationality and naturalisation in an effort to address the concerns of the opposition parties.<sup>15</sup>

**3.8.4** Serious societal and political tensions between the 'Ivorian' south and the 'non-Ivorian' groups in the north (regarded as non-citizens) continued in 2007. Members of northern ethnic groups that were represented domestically and in neighbouring countries often were required to document their citizenship. According to the U.S. Department of State, the police routinely abused and harassed non-citizen Africans residing in the country. Harassment by officials reportedly reflected the common belief that foreigners were responsible for high crime rates and instances of identity card fraud. Harassment of northerners increased markedly after the 2002 rebellion, but in 2007 there was a decline

<sup>14</sup> FCO Country profile 2008 & USSD 2007: Côte d'Ivoire (Section 5)

<sup>15</sup> USSD 2006: Côte d'Ivoire (Section 5)

from the levels of the previous year.<sup>16</sup>

- 3.8.5** National identification remained at the heart of efforts to resolve the political crisis in 2007. Between 300,000 and three million persons were believed to be undocumented Ivorians and therefore unable to participate fully in Ivorian politics and society. In accordance with the Ouagadougou Agreement, the Government and the FN agreed to allow the mobile courts to issue birth certificates that indicate the nationality of a person's parents. The parties have made significant progress by completing the mobile courts operation, which included issuing more than half a million documents to Ivorian nationals. The identification of the population and the voter registration processes were launched in September 2008, but are taking longer than expected.<sup>17</sup>
- 3.8.6** *Sufficiency of protection.* If this category of applicants' fear is of ill-treatment/persecution by the state authorities, they cannot apply to these authorities for protection. If this category of applicants' fear is of ill-treatment/persecution as a result of societal discrimination or by other non-state agents, there is insufficient evidence that the state authorities would be able to offer adequate protection to those of 'non-Ivorian' or Muslim background.
- 3.8.7** *Internal relocation.* Although members of the security forces and other government agencies reportedly engage in acts of extortion, intimidation, and physical assault at roadside checkpoints, the Government generally does not prevent internal travel or freedom of movement. Furthermore, the Zone of Confidence, which divided the rebel-held north and the Government-held south for almost four years, was dismantled following the peace agreement of March 2007.<sup>18</sup> In the light of recent political developments, case owners should assess on an individual case by case basis whether internal relocation is a viable option for Muslim and/or 'non-citizen' immigrants who fear mistreatment at the hands of the state or groups loyal to President Gbagbo.
- 3.8.8** *Conclusion.* There have been frequent reports over the past few years of state and non-state violence and discrimination stemming from the long-standing political and armed dispute between north and south about citizenship rights for immigrant ethnic and religious minorities. Initially, there was slow progress implementing reforms to enfranchise 'non-citizens', but the Ouagadougou Agreement of March 2007 set a timetable for the identification scheme to resume and there has been some progress implementing this. There is little information on whether non-Ivorians and/or Muslims from the north have faced mistreatment at the hands of militias and groups loyal to President Gbagbo since the peace agreement of March 2007. However, it is unlikely that applicants of 'non-Ivorian' background and/or who are Muslims from the north will be able to establish a real risk of ill-treatment amounting to persecution, either by the state authorities or non-state agents based solely on their immigrant status and/or religious affiliation. The grant of asylum in such cases is therefore unlikely to be appropriate.

### **3.9 Female Genital Mutilation (FGM)**

**3.9.1** Some applicants will apply for asylum based on ill-treatment amounting to persecution at the hands of non-state agents, usually community elders or tribal leaders, because they have undergone, are liable for, or face pressure to carry out on others, FGM.

**3.9.2** *Treatment.* FGM is a serious problem in Ivory Coast. In 2007, it was practised most

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<sup>16</sup> USSD 2007: Côte d'Ivoire (Section 5)

<sup>17</sup> USSD 2007: Côte d'Ivoire (Section 5), UNSC: Seventeenth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire (Sections II & IV), UNSC: Eighteenth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire (Section VI) & BBC News 'Ivorian voter registration halted' dated 24 October 2008

<sup>18</sup> USSD 2007: Côte d'Ivoire (Section 2), HRW World Report 2009: Côte d'Ivoire, UNSC: Seventeenth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire (Section II) & UNSC: Eighteenth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire (Sections III & VI)



frequently among rural populations in the north and west and to a lesser extent in central and southern regions. The procedure usually is performed on young girls or at puberty as a rite of passage. An estimated 60% of women have undergone the procedure. Unlike the previous year, no arrests related to FGM were made in 2007. Local non-governmental organisations (NGOs), such as the Djigui Foundation, Animation Rurale de Korhogo, and the National Organization for Child, Woman, and Family, have established programmes to prevent FGM and in 2007 continued to work to persuade FGM practitioners to turn in their instruments.<sup>19</sup>

**3.9.3 Sufficiency of protection.** Ivorian law specifically forbids FGM and provides penalties for practitioners of up to five years' imprisonment and fines of approximately US\$720 to US\$4,000 (360,000 to 2 million CFA francs). Double penalties apply to medical practitioners. In 2007, the National Committee in Charge of Fighting against Violence against Women and Children (under the Ministry of Women, Family and Social Affairs) maintained a hot line for abused women, helped provide shelters for victims of abuse, and counselled abusive husbands. The Committee also monitored abusive situations through frequent visits. Young girls who feared becoming victims of abuse, FGM, or forced marriage could appeal to the committee, which arranged for shelter in facilities run by the Government or NGOs. The Committee often stopped abuse by threatening legal action against offending parents or husbands.<sup>20</sup> Those in fear of undergoing, or being forced to perform FGM are therefore able to seek and receive adequate protection from the authorities.

**3.9.4 Internal relocation.** Although both members of government forces and FN rebels reportedly engage in acts of extortion and intimidation at roadside checkpoints, the Government generally does not prevent internal travel or freedom of movement. Furthermore, the Zone of Confidence, which divided the rebel-held north and the Government-held south for almost four years, was dismantled following the peace agreement of March 2007.<sup>21</sup> With FGM being a localised practice, those in fear of undergoing, or being forced to perform FGM are able to internally relocate to another part of the country to escape this threat.

### **3.9.5 Caselaw.**

**DI (Ivory Coast) CG [2002] UKIAT 04437.** Threat of female genital mutilation. The claimant alleged that her Article 3 and 8 rights would be breached due to the threat of FGM. The Tribunal found that there was protection available in Ivory Coast and an internal flight option.

**3.9.6 Conclusion.** While FGM remains a serious problem in Ivory Coast, particularly in the north, it is illegal and practitioners have been prosecuted under anti-FGM legislation. The availability of adequate state protection and a viable internal relocation alternative means that claims in this category are unlikely to engage the UK's obligations under the 1951 Convention or the ECHR. The grant of asylum or Humanitarian Protection in such cases is therefore unlikely to be appropriate.

## **3.10 Prison Conditions**

**3.10.1** Applicants may claim that they cannot return to Ivory Coast due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in Ivory Coast are so poor as to amount to torture or inhuman treatment or punishment.

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<sup>19</sup> USSD 2007: Côte d'Ivoire (Section 5) & Home Office COI Service Country of Origin Information Report 2008: Female Genital Mutilation (Countries: Cote D'Ivoire)

<sup>20</sup> USSD 2007: Côte d'Ivoire (Section 5) & COI Report 2008: Female Genital Mutilation (Countries: Cote D'Ivoire)

<sup>21</sup> USSD 2007: Côte d'Ivoire (Section 2), HRW World Report 2009: Côte d'Ivoire, UNSC: Seventeenth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire (Section II) & UNSC: Eighteenth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire (Sections III & VI)

- 3.10.2** The guidance in this section is concerned solely with whether prison conditions are such that they breach Article 3 of ECHR and warrant a grant of Humanitarian Protection. If imprisonment would be for a Refugee Convention reason, or in cases where for a Convention reason a prison sentence is extended above the norm, the claim should be considered as a whole but it is not necessary for prison conditions to breach Article 3 in order to justify a grant of asylum.
- 3.10.3 *Consideration.*** According to the U.S. Department of State, prison conditions were poor and in some cases life threatening in the country's 33 prisons during 2007. In the 22 prisons located in the area under control of the Government, this situation was primarily due to inadequate budgets and overcrowding. For example, the country's main prison, MACA, was built for 1,500 but held 4,696 detainees at the end of December 2007. The other 21 prisons in the government-controlled area collectively held 5,925 detainees despite their 3,371-person capacity. Conditions in MACA were notoriously bad during 2007, especially for the poor. Wealthy prisoners reportedly could "buy" extra cell space, food, and even staff to wash and iron their clothes. There were credible reports that prisoners frequently brutalized other prisoners for sleeping space and rations.<sup>22</sup>
- 3.10.4** In 2007, the Government spent approximately \$0.26 (120 CFA) per prisoner on the daily food ration, which was not sufficient to prevent cases of severe malnutrition in prisoners who had no family or whose families did not bring them additional food. Inmates at some prisons grew vegetables to feed themselves with aid provided by the International Rescue Committee and the European Union (EU) through the NGO Prisoners Without Borders. Several small national and international charities, such as the Ivorian Islamic Medical Rescue Association, continued to provide food, clothing, and legal and medical assistance to prisoners. The International Committee of the Red Cross (ICRC) helped feed prisoners with no family in the towns of Bondoukou, Bouafle, Dimbokro, Sassandra, and Divo, and also provided aid to renovate prison medical centres and prison cells. Prisoners Without Borders received funding from the EU to renovate eight prisons, however, by the end of 2007, only the renovation of the Divo prison had been completed, providing space to accommodate 50 additional prisoners.<sup>23</sup>
- 3.10.5** Male minors were held separately from adult men in 2007, but the physical barriers at the main MACA prison were inadequate to enforce complete separation. At year's end, fewer minors were detained with adults than in the past. Prison conditions for women remained particularly difficult in 2007 and there were continued reports that female prisoners engaged in sexual relations with wardens to get food and privileges. There also continued to be inadequate healthcare facilities for women during the year. Pregnant prisoners went to hospitals to give birth and their children often lived with them in prison. The penitentiary accepts no responsibility for the care or feeding of the infants, although the women reportedly received help from local NGOs.<sup>24</sup>
- 3.10.6** In 2007, the International Catholic Office for Children (BICE) and Prisoners Without Borders continued their efforts to assist imprisoned children by helping to locate their families and by maintaining a separate facility for them at the Divo prison. During the year, BICE helped create eight separate detention centres for minors. Nine other prisons had separate cells for minors by year's end. During 2007, the Government permitted access to prisons by local and international NGOs including the ICRC, World Doctors, International Prisons' Friendship, Love Amour, and the Ivorian Islamic Medical Rescue Association.<sup>25</sup>
- 3.10.7 *Conclusion.*** Whilst prison conditions in Ivory Coast are poor with overcrowding, and lack of medical treatment and food being particular problems, these conditions are unlikely to reach the minimum level of severity required to reach the Article 3 threshold. Therefore,

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<sup>22</sup> USSD 2007: Côte d'Ivoire (Section 1)

<sup>23</sup> USSD 2007: Côte d'Ivoire (Section 1)

<sup>24</sup> USSD 2007: Côte d'Ivoire (Section 1)

<sup>25</sup> USSD 2007: Côte d'Ivoire (Section 1)

even where applicants can demonstrate a real risk of imprisonment on return to Ivory Coast, a grant of Humanitarian Protection will not generally be appropriate. However, the individual factors of each case should be considered to determine whether detention will cause a particular individual in his or her particular circumstances to suffer treatment contrary to Article 3, relevant factors being the likely length of detention, the likely type of detention facility, and the individual's age and state of health. Where in an individual case treatment does reach the Article 3 threshold a grant of Humanitarian Protection will be appropriate.

#### **4. Discretionary Leave**

**4.1** Where an application for asylum and Humanitarian Protection falls to be refused there may be compelling reasons for granting Discretionary Leave (DL) to the individual concerned. (See Asylum Instructions on Discretionary Leave) Where the claim includes dependent family members consideration must also be given to the particular situation of those dependants in accordance with the Asylum Instructions on Article 8 ECHR.

**4.2** With particular reference to Ivory Coast the types of claim which may raise the issue of whether or not it will be appropriate to grant DL are likely to fall within the following categories. Each case must be considered on its individual merits and membership of one of these groups should *not* imply an automatic grant of DL. There may be other specific circumstances related to the applicant, or dependent family members who are part of the claim, not covered by the categories below which warrant a grant of DL - see the Asylum Instructions on Discretionary Leave and the Asylum Instructions on Article 8 ECHR.

#### **4.3 Minors claiming in their own right**

**4.3.1** Minors claiming in their own right who have not been granted asylum or HP can only be returned where they have family to return to or there are adequate reception, care and support arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception, care and support arrangements in place for minors with no family in Ivory Coast.

**4.3.2** Minors claiming in their own right without a family to return to, or where there are no adequate reception, care and support arrangements, should if they do not qualify for leave on any more favorable grounds be granted Discretionary Leave for a period as set out in the relevant Asylum Instructions.

#### **4.4 Medical treatment**

**4.4.1** Applicants may claim they cannot return to Ivory Coast due to a lack of specific medical treatment. See the IDI on Medical Treatment which sets out in detail the requirements for Article 3 and/or 8 to be engaged.

**4.4.2** Medical care in Ivory Coast outside of Abidjan is extremely limited. Abidjan has privately-run medical facilities that are adequate and good physician specialists can be found, though few speak English. While pharmacies are well stocked with medications produced in Europe, newer drugs may not be available. According to Médecins Sans Frontières, most people in Ivory Coast cannot afford healthcare under the current cost-recovery system.<sup>26</sup>

**4.4.3** Mental health is part of the primary health care system. Actual treatment of severe mental disorders is available at the primary level. There are community care facilities for patients with mental disorders and regular training of primary care professionals is carried out. Therapeutic drugs are generally available.<sup>27</sup> HIV/AIDS adult prevalence rate for adults was

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<sup>26</sup> U.S. Department of State International Travel Information: Cote d'Ivoire & Médecins Sans Frontières International Activity Report 2007: Ivory Coast

<sup>27</sup> World Health Organisation Mental Health Atlas 2005: Cote d'Ivoire

estimated to be 7% in 2003.<sup>28</sup>

- 4.4.4** Where a case owner considers that the circumstances of the individual applicant and the situation in Ivory Coast reach the threshold detailed in the IDI on Medical Treatment making removal contrary to Article 3 or 8 a grant of Discretionary Leave to remain will be appropriate. Such cases should always be referred to a Senior Caseworker for consideration prior to a grant of Discretionary Leave.

## **5. Returns**

- 5.1** Factors that affect the practicality of return such as the difficulty or otherwise of obtaining a travel document should not be taken into account when considering the merits of an asylum or human rights claim. Where the claim includes dependent family members their situation on return should however be considered in line with the Immigration Rules, in particular paragraph 395C requires the consideration of all relevant factors known to the Secretary of State, and with regard to family members refers also to the factors listed in paragraphs 365-368 of the Immigration Rules.

- 5.2** In a position paper dated January 2004, the United Nations High Commissioner for Refugees (UNHCR) advised that the return of unsuccessful asylum seekers originating from Abidjan should be approached with caution and that it is not safe for those originating from outside the capital to return.<sup>29</sup> This view was reaffirmed in the UNHCR's paper of October 2006, in which it was stated that no asylum seeker should be forcibly returned to Ivory Coast until such time as the security and human rights situation in the country has improved sufficiently to justify it.<sup>30</sup> The UNHCR's position provides a broad assessment of the situation in Ivory Coast and it presents an accurate overview of the general humanitarian situation and the social and security problems inherent in Ivory Coast. However, asylum and human rights claims are not decided on the basis of the general situation - they are based on the circumstances of the particular individual and the risk to that individual. We therefore do not share the UNHCR's view that every Ivorian should automatically be entitled to some form of protection. Similarly, we do not share the UNHCR's view with regard to the return of Ivorian failed asylum seekers and any individual Ivorian applicant found by the Home Office and the independent appeals process not to be in need of international protection may return safely to Ivory Coast.

- 5.3** Ivorian nationals may return voluntarily to any region of Ivory Coast at any time by way of the Voluntary Assisted Return and Reintegration Programme (VARRP) implemented on behalf of the UK Border Agency by the International Organization for Migration (IOM) and co-funded by the European Refugee Fund. IOM will provide advice and help with obtaining travel documents and booking flights, as well as organising reintegration assistance in Ivory Coast. The programme was established in 1999, and is open to those awaiting an asylum decision or the outcome of an appeal, as well as failed asylum seekers. Those wishing to avail themselves of this opportunity for assisted return should be put in contact with the IOM offices in London on 0800 783 2332 or [www.iomlondon.org](http://www.iomlondon.org).

## **6. List of source documents**

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<sup>28</sup> Central Intelligence Agency World Factbook 2008: Cote d'Ivoire

<sup>29</sup> United Nations High Commissioner for Refugees (UNHCR) paper on the return of rejected asylum seekers to Cote D'Ivoire, January 2004

<sup>30</sup> UNHCR: Update on International Protection Needs of Asylum Seekers from Cote D'Ivoire, October 2006

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