



# 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. Caseowners 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, caseowners 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, with Felix Houphouët-Boigny as President and chairman of the single ruling party, the Parti Démocratique de la Côte d'Ivoire (PDCI) which dominated Ivorian politics until the early 1990s. A new electoral code in 1994, required presidential candidates to have two Ivorian parents and to have resided in

the country for five years before the election. Both amendments were aimed at preventing Alassane Ouattara, whose party, the Rassemblement des républicains (RDR) gains its support in the main from the Muslim north of the country, from standing in the 1995 presidential election. President Bédié and the PDCI won an overwhelming victory, but subsequently failed to deal with growing student and industrial unrest or with problems over pay and conditions in the military. In December 1999, General Robert Guei led the country's first-ever military coup.<sup>1</sup>

- 2.2** Legislative elections in December 2000 (from which Ouattara was again banned, leading to a RDR boycott) and municipal elections in March 2001 went relatively smoothly, but the strong support for the PDCI and the RDR, prompted President Gbagbo of the Front Populaire Ivoirien (FPI), elected in the elections of December 2000, to hold a National Reconciliation Forum in October 2001. Gbagbo, Bédié, Ouattara and Guei all attended to agree a series of recommendations including acceptance of the October 2000 election results. All the main parties participated in the first-ever district and regional elections in July 2002. However, the elections were marred by inter-ethnic violence between RDR and FPI supporters and by claims of administrative malpractice and contested electoral lists.<sup>2</sup>
- 2.3** On 19 September 2002, an attempted coup took place in Abidjan and in the north of the country. The uprising in Abidjan was quickly suppressed, although Guei, and Interior Minister Boga Doudou, were killed in the ensuing violence. The rebels had more success in the north, seizing control of the major cities of Bouake and Korhogo. The rebels, who subsequently identified themselves as the Mouvement Patriotique de Côte d'Ivoire (MPCI), included factions of the military unhappy at the Government's proposals to retire them, but also drew wider support from those who opposed the existing political regime. The Economic Community of West African states (ECOWAS) responded swiftly to the crisis, negotiating a ceasefire between the two sides on 17 October 2002. However, the situation became more complex following the emergence in November 2002 of two new rebel groups in the west, the Mouvement Patriotique Ivoirien du Grand Ouest (MPIGO) and the Movement for Peace and Justice (MJP). There was a fresh round of fighting in the west, and also a number of ceasefire breaches in the north.<sup>3</sup>
- 2.4** Following round-table discussions near Paris in January 2003, which produced the Linas Marcoussis Agreement (LMA), a cease-fire was signed in May 2003 and a new power sharing Government of National Reconciliation was formed which included rebel representatives. However, the Government made little progress on the implementation of the LMA and in March 2004 the rebels, now known as Forces Nouvelles (FN), suspended its participation in the Disarmament, Demobilization, and Reintegration (DDR) programme.<sup>4</sup>
- 2.5** In April 2004, a United Nations mission (UNOCI) was established with 6,000 troops joining the 4,000 member French peacekeeping force. In November 2004, government forces attempted to attack the rebels across the cease-fire line, but on 6 November 2004 government planes bombed French positions, killing 9 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>5</sup>

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<sup>1</sup> Home Office Country of Origin Information (COI) Key Documents: Ivory Coast, Foreign and Commonwealth Office (FCO) Country Profile 2006: Ivory Coast, British Broadcasting Corporation (BBC) News Country Profile: Ivory Coast & BBC News Timeline: Ivory Coast

<sup>2</sup> COI Key Documents: Ivory Coast, FCO Country Profile 2006: Ivory Coast, BBC News Country Profile: Ivory Coast & BBC News Timeline: Ivory Coast

<sup>3</sup> COI Key Documents: Ivory Coast, FCO Country Profile 2006: Ivory Coast, U.S. Department of State report on Human Rights Practices (USSD) 2006 (Introduction), BBC News Country Profile: Ivory Coast & BBC News Timeline: Ivory Coast

<sup>4</sup> COI Key Documents: Ivory Coast, FCO Country Profile 2006: Ivory Coast, USSD 2006 (Introduction), BBC News Country Profile: Ivory Coast & BBC News Timeline: Ivory Coast

<sup>5</sup> COI Key Documents: Ivory Coast, FCO Country Profile 2006: Ivory Coast, USSD 2006 (Introduction), BBC News Country Profile: Ivory Coast & BBC News Timeline: Ivory Coast

- 2.6** The Pretoria Agreements mediated by President Mbeki of South Africa during the first half of 2005 failed to produce significant progress on the key issues of the national identification process, preparations for elections and disarmament. In October 2005, it was decided by the African Union (endorsed by the United Nations) that Laurent Gbagbo should remain as head of state for a transitional 12 month period once his electoral mandate expired at the end of October, but that a new Prime Minister should be named to oversee the transition. On 5 December 2005, the African Union (AU) mediation team named Charles Konan Banny, head of the central bank of the West African Franc Zone, as prime minister.<sup>6</sup>
- 2.7** The Government's human rights record remained poor in 2006. The continuing political instability and uncertainty kept tensions high throughout the country. The following human rights problems were reported in 2006: restriction of citizens' right to change their government; arbitrary and unlawful killings by security forces, pro-government militias, and student groups; disappearances; torture and other cruel, inhuman, or degrading treatment and punishment by security forces and pro-government militias and a student group; deplorable prison and detention centre conditions; security force impunity; arbitrary arrest and detention; denial of fair public trial; arbitrary interference with privacy, family, home, and correspondence; police harassment and abuse of non-citizen Africans; use of excessive force and other abuses in internal conflicts; restrictions on freedoms of speech, press, peaceful assembly, association, and movement; corruption; discrimination and violence against women; female genital mutilation (FGM); child abuse and exploitation; trafficking in persons; forced labour, including by children; child labour, including hazardous labour. The FN's human rights record also continued to be poor in 2006 and there were reports of killings and disappearances of civilians in FN-held territories. The FN reportedly arbitrarily arrested and detained persons, and conducted arbitrary ad hoc justice.<sup>7</sup>
- 2.8** In March 2007, following a month of negotiations, President Gbagbo and the FN's leader Guillaume Soro signed a peace agreement in Ouagadougou, Burkina Faso. Under the terms of the accord, the Government and the FN agreed to form a new power sharing government with elections to be held by the end of 2007, set a deadline for disarmament and for a mass identification programme, and establish a joint army command.<sup>8</sup>
- 2.9** In accordance with the peace agreement, Guillaume Soro has been appointed to the position of prime minister in place of Charles Konan Banny. Prime Minister Soro has formed a new government comprised of eleven ministers from President Gbagbo's Front Populaire Ivoirien and seven ministers from the Forces Nouvelles. Five positions have been appointed each to the two leading opposition parties; the Rassemblement des Republicains and the Parti Démocratique de la Côte d'Ivoire. Work has begun to dismantle the buffer zone which has divided the rebel-held north and the Government-held south for almost four years and the peace plan specifies that the 11,000 United Nations and French forces monitoring the area will be reduced by half every two months until their complete withdrawal. In April 2007, President Gbagbo also signed a law giving amnesty for crimes committed during the war which applies to both the Forces Nouvelles and the armed forces loyal to the President.<sup>9</sup>

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

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<sup>6</sup> COI Key Documents: Ivory Coast, FCO Country Profile 2006: Ivory Coast, USSD 2006 (Introduction), BBC News Country Profile: Ivory Coast & BBC News Timeline: Ivory Coast

<sup>7</sup> COI Key Documents: Ivory Coast, USSD 2006 (Introduction) & Human Rights Watch (HRW) World Report 2007: Ivory Coast

<sup>8</sup> United Nations Security Council (UNSC): Thirteenth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire, BBC News 'Peace plan for Ivory Coast agreed' dated 4 March 2007 & IRIN: Cote d'Ivoire 'New peace agreement' dated 5 March 2007

<sup>9</sup> UNSC: Thirteenth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire, IRIN: Cote D'Ivoire 'New government formed' dated 9 April 2007, IRIN: Cote d'Ivoire 'Peace process moves ahead with talks on buffer zone' dated 12 April 2007, IRIN: Cote d'Ivoire 'Rival groups start dismantling buffer' dated 17 April 2007 & BBC News 'Amnesty for Ivory Coast conflict' dated 13 April 2007

- 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 instructions below.
- 3.2** Each claim should be assessed to determine whether there are reasonable grounds for believing that the claimant 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 Instructions on Assessing the Claim).
- 3.3** If the claimant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the claimant 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 their individual circumstances.
- 3.4** This guidance is **not** designed to cover issues of credibility. Caseowners will need to consider credibility issues based on all the information available to them. (For guidance on credibility see para 11 of the Asylum Instructions on Assessing the Claim)
- 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.ind.homeoffice.gov.uk/documents/asylumpolicyinstructions/>
- 3.6 Members of the Rassemblement des Republicains (RDR)**
- 3.6.1** Many claimants will apply for asylum based on ill-treatment amounting to persecution at the hands of the state authorities due to their membership of, involvement with, or perceived involvement with a major opposition political party, the Rassemblement des Republicains (RDR).
- 3.6.2 *Treatment.*** The RDR was formally launched in October 1994 by a dissident faction of the then ruling PDCI. By the end of 1994 the RDR had replaced the FPI as the main opposition party. The RDR is seen as drawing most of its support from the north, whose populations are predominantly Muslim. Members and supporters of the RDR have been subject to arbitrary arrest, detention, extra-judicial killings and torture, as well as rape and other human rights violations by government security forces. Signs of an improvement in the situation of political activists were evident when, in early 2003 the RDR members reportedly detained by the Government in 2002 in what opposition parties deemed a 'witch hunt' were finally released from detention.<sup>10</sup>
- 3.6.3** In March 2003, Prime Minister Diarra formed a Government of National Reconciliation. The RDR were given seven of the 41 ministerial posts, including the Ministry of Justice. However, in March 2004 many people were rounded up and arrested by state security forces during a protest march by the opposition political parties pushing for the full implementation of the Linas Marcoussis peace accord. The round-ups occurred in the poorer areas inhabited primarily by West African immigrants and northern Ivorians, often

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<sup>10</sup> COI Key Documents: Ivory Coast, FCO Country Profile 2006: Ivory Coast, Amnesty International (AI) Annual Report 2005 & USSD 2004 (Sections 1 & 2)

perceived as supporters of the RDR. In response to the violence, the RDR suspended their involvement in the government. High-ranking RDR officials and leaders linked with rebel activities who were arrested in July and August 2004 were promptly released. During government attacks on rebel strongholds in the north in November 2004, crowds of a pro-government youth movement the Young Patriots ransacked RDR headquarters and RDR ministers' houses in Abidjan.<sup>11</sup>

- 3.6.4** In 2006, pro-government militias and groups, sometimes working together with state security forces, intimidated and at times attacked opposition party members. During 2006, security forces continued to arrest and usually release RDR party members and officials and persons of northern origins thought to be close to the rebellion. RDR members occasionally had difficulties associating freely in 2006, and there were reports that security forces harassed and detained RDR members who tried to meet. In July 2006, the RDR also reported that its militants were attacked in clashes over the United Nations-backed identification programme which proposes to issue identification cards to over 3 million unregistered people to enable them to vote.<sup>12</sup>
- 3.6.5** Following the peace agreement signed by President Gbagbo and the Forces Nouvelles, Prime Minister Soro formed a new power sharing government in April 2007 based on the premise that elections will be held by the end of the year. Prime Minister Soro's Government comprises eleven ministers from President Gbagbo's Front Populaire Ivoirien and seven ministers from the FN, with five positions appointed to the RDR.<sup>13</sup>
- 3.6.6** **Sufficiency of protection.** As this category of claimants' fear is of ill-treatment/persecution by the state authorities, they cannot apply to these authorities for protection.
- 3.6.7** **Internal relocation.** Although there were reports in 2006 that security forces and other government agencies operated roadblocks on major roads in the government controlled south, where they demand that motorists or passengers produce identity and vehicle papers and regularly extort small amounts of money, the Government generally does not prevent internal travel or freedom of movement.<sup>14</sup> Following the peace agreement of March 2007, work has also begun to dismantle the buffer zone which has divided the rebel-held north and the Government-held south for almost four years. In the light of recent political developments, caseowners 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 militias and groups loyal to President Gbagbo.
- 3.6.8** **Caselaw.**
- AZ (Ivory Coast) CG [2004] UKIAT 00170.** 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).
- 3.6.9** **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. The party's activities were subject to restrictions by the Government between 2004 and 2006. However, there is little information on whether RDR members have continued to face mistreatment at the hands of militias and groups loyal to President Gbagbo since the peace agreement of March 2007. As the RDR is a legal

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<sup>11</sup> FCO Country Profile 2006: Ivory Coast, AI Annual Report 2005 & USSD 2004 (Sections 1 & 2)

<sup>12</sup> COI Key Documents: Ivory Coast, USSD 2006 (Sections 1 & 2), HRW World Report 2007: Ivory Coast, BBC News 'Ivorian ID scheme sparks clashes' dated 23 July 2006 & IRIN: Cote d'Ivoire 'More violence surrounding identification programme' dated 26 July 2006

<sup>13</sup> UNSC: Thirteenth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire & IRIN: Cote d'Ivoire 'New government formed' dated 9 April 2007

<sup>14</sup> COI Key Documents: Ivory Coast & USSD 2006 (Sections 1 & 2)

organisation which is currently a part of the new administration, affiliates are not considered to be at risk of treatment amounting to persecution on the basis of their membership of, or association with the party. Membership of, involvement in or perceived involvement in the RDR at low or medium level is not likely to lead to the level of ill-treatment that would amount to persecution. The grant of asylum in such cases is therefore not likely to be appropriate. Still, caseowners should assess on an individual case by case basis whether there may be a real risk that known RDR affiliates will encounter ill-treatment amounting to persecution. The grant of asylum may therefore be appropriate in some cases.

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

**3.7.1** Many claimants will apply for asylum based on ill-treatment amounting to persecution at the hands of the state authorities due to their membership of, involvement with, or perceived involvement with Forces Nouvelles (FN), the opposition ex-rebel movement that controls the northern half of the country:

**3.7.2** *Treatment.* The FN are comprised of three former rebel groups; the Patriotic Movement of Ivory Coast (MPCI), the Ivorian Popular Movement of the Far West (MPIGO) and the Movement for Peace and Justice (MJP). The MPCI was created in late September 2002 while the MPIGO and MJP emerged in the west in October 2002. The FN control most of the north and most of the west of the country. The FN's human rights record continued to be poor in 2006 and there were reports of killings and disappearances of civilians in FN-held territories. The FN reportedly arbitrarily arrested and detained persons, and conducted arbitrary ad hoc justice.<sup>15</sup>

**3.7.3** Numerous demonstrations have occurred in the FN-controlled territory, and are usually organised by the MPCI in support of the FN and against President Gbagbo. The FN joined the PDCI opposition party in arranging the anti-Gbagbo protest march in March 2004, which resulted in the death of many demonstrators at the hands of the government security forces. Consequently the FN suspended their involvement in the Government of National Reconciliation. President Gbagbo also dismissed three opposition ministers from Ivory Coast's broad-based interim government, including Guillaume Soro, the leader of the FN. Though the FN temporarily rejoined the transitional government in August 2004, relations with the governing party and President Gbagbo again deteriorated to the point where government forces attacked the FN's northern strongholds by air in November 2004. The immediate crisis and threat of a return to civil war was averted by the end of 2004.<sup>16</sup>

**3.7.4** Tense and fragile relations between the Government and the FN continued into 2005 and 2006. In April 2005, the rebels declared an end to their armed conflict, and Guillaume Soro, the leader of the FN, returned to the Cabinet in March 2006 as Minister of Reconstruction. However, tensions remained regarding disarmament of pro-government and rebel forces, and the United Nations-backed identification programme.<sup>17</sup> A new security force of about 1,700 men was created by Presidential decree in July 2005 to ensure security in Abidjan. However, during 2005 and 2006 the police, army and, to a lesser extent, armed militias reportedly engaged in systematic and widespread extortion, racketeering and intimidation of businessmen, street traders, and motorists among others. Perceived rebel (FN) sympathisers were believed to be particularly targeted.<sup>18</sup>

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<sup>15</sup> COI Key Documents: Ivory Coast, FCO Country Profile 2006: Ivory Coast, HRW World Report 2007: Ivory Coast, USSD 2006 (Introduction & Section 1) USSD 2004 (Introduction & Section 1)

<sup>16</sup> COI Key Documents: Ivory Coast, FCO Country profile 2006: Ivory Coast, BBC News 'Ivorian rebel takes cabinet seat' dated 16 March 2006, HRW World Report 2005: Ivory Coast, AI Annual Report 2005 & USSD 2004 (Section 1)

<sup>17</sup> COI Key Documents: Ivory Coast, FCO Country profile 2006: Ivory Coast, HRW World Report 2007: Ivory Coast, HRW World Report 2006: Ivory Coast, AI Annual Report 2006, USSD 2006 (Introduction & Section 1) & USSD 2005 (Section 1)

<sup>18</sup> COI Key Documents: Ivory Coast, HRW World Report 2007: Ivory Coast, HRW World Report 2006: Ivory Coast, AI Annual Report 2006, USSD 2006 (Introduction & Section 1) & USSD 2005 (Section 1)



- 3.7.5** In 2006, there were credible reports that the FN rebels systematically extorted money and pillaged goods, including livestock and foodstuffs, from civilians in villages both under their control and within the buffer zone. Suspected government collaborators and spies were on several occasions tortured and summarily executed by rebel leaders. In the north, rebel commanders arbitrarily dispensed justice, in turn leading to severe violations of human rights: numerous individuals accused of common crimes were arbitrarily detained within prisons, informal detention centres and military camps for often extended periods of time. The Dozos, a traditional tribally based civil defence group now working in coordination with the Forces Nouvelles, also committed serious violations including extortion, arbitrary detention, torture and rape during 2006.<sup>19</sup>
- 3.7.6** In March 2007, following a month of negotiations, President Gbagbo and the FN's leader Guillaume Soro signed a peace agreement in Ouagadougou, Burkina Faso. Under the terms of the accord, the Government and the FN agreed to form a new power sharing government with elections to be held by the end of 2007, set a deadline for disarmament and for a mass identification programme, and establish a joint army command.<sup>20</sup>
- 3.7.7** In accordance with the peace agreement, Guillaume Soro has been appointed to the position of prime minister in place of Charles Konan Banny. Prime Minister Soro has formed a new government comprised of eleven ministers from President Gbagbo's Front Populaire Ivoirien and seven ministers from the Forces Nouvelles. Work has begun to dismantle the buffer zone which has divided the rebel-held north and the Government-held south for almost four years and the peace plan specifies that the 11,000 United Nations and French forces monitoring the area will be reduced by half every two months until their complete withdrawal. In April 2007, President Gbagbo also signed a law giving amnesty for crimes committed during the war which applies to both the FN and the armed forces loyal to the President.<sup>21</sup>
- 3.7.8** **Sufficiency of protection.** As this category of claimants' fear is of ill-treatment/persecution by the state authorities, they cannot apply to these authorities for protection.
- 3.7.9** **Internal relocation.** There were reports in 2006 that persons living in areas under FN control faced some harassment and extortion from local military authorities when trying to travel between towns, and to and from the government-controlled south, but these are not sufficiently serious to prevent freedom of movement. Equally, although security forces and other government agencies operated roadblocks on major roads in the government controlled south during 2006, where they demand that motorists or passengers produce identity and vehicle papers and regularly extort small amounts of money, the Government generally does not prevent internal travel or freedom of movement.<sup>22</sup>
- 3.7.10** Following the peace agreement of March 2007, work has also begun to dismantle the buffer zone which has divided the rebel-held north and the Government-held south for almost four years. Since March 2007, there is little information on whether those associated with the FN would encounter difficulties in relocating internally were they to face mistreatment at the hands of militias and groups loyal to President Gbagbo. Therefore, caseowners should assess on an individual case by case basis whether internal relocation is a viable option for claimants in this category.

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<sup>19</sup> COI Key Documents: Ivory Coast, HRW World Report 2007: Ivory Coast, AI Annual Report 2006 & USSD 2006 (Section 1)

<sup>20</sup> UNSC: Thirteenth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire, BBC News 'Peace plan for Ivory Coast agreed' dated 4 March 2007 & IRIN: Cote d'Ivoire 'New Peace agreement' dated 5 March 2007

<sup>21</sup> UNSC: Thirteenth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire, IRIN: Cote D'Ivoire 'New government formed' dated 9 April 2007, IRIN: Cote d'Ivoire 'Peace process moves ahead with talks on buffer zone' dated 12 April 2007, IRIN: Cote d'Ivoire 'Rival groups start dismantling buffer' dated 17 April 2007 & BBC News 'Amnesty for Ivory Coast conflict' dated 13 April 2007

<sup>22</sup> USSD 2006 (Section 2)

**3.7.11 Conclusion.** Since the conclusion of the provisional disarmament agreement between the Government and the FN in April 2005, there have been no reports of substantial recurrences of the armed conflict or human rights abuses that were widely documented in 2004. President Gbagbo and the FN's leader Guillaume Soro signed a peace agreement in March 2007 and Soro was appointed prime minister of the new government the following month. In the light of these developments, it is likely that claimants who cite their involvement with, perceived involvement with or membership of FN will not now be able to adduce a real risk of ill-treatment amounting to persecution at the hands of the authorities within the terms of the 1951 Convention. The grant of asylum in such cases is not therefore likely to be appropriate.

**3.7.12** Caseowners should note that members of the FN have been responsible for numerous serious human rights abuses (see paragraph 3.7.5). If it is accepted that a claimant was an active operational member or combatant for the FN and the evidence suggests he/she has been involved in such actions, then caseowners should consider whether one of the Exclusion clauses is applicable. Caseowners 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 claimants will 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-President Gbagbo mainly Christian population in the south.

**3.8.2 Treatment.** Ivory Coast is home to 60 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 26% of the population is foreign, and of that group, 95% were other Africans. There are more than 5 million West African immigrants living in the country. Most of the Africans were from neighbouring countries, with half from Burkina Faso. Birth in the country does not automatically confer citizenship. Outdated or inadequate land ownership laws result in conflicts with an ethnic and anti-foreigner aspect.<sup>23</sup>

**3.8.3** In December 2004, the National Assembly made changes to the nationality code and adopted a Special Law on Naturalization, 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 naturalization in an effort to address the concerns of the opposition parties; however, the legislation is a contentious issue.<sup>24</sup>

**3.8.4** Serious societal and political tensions between the 'Ivorian' south and the immigrant 'non-Ivorian' groups in the north (regarded as non-citizens) continued in 2006. Members of northern ethnic groups that were found in neighbouring countries as well as in the country often were required to document their citizenship, whereas members of formerly or presently politically powerful ethnic groups of the west, south, and centre reportedly were not required to do so. Police routinely abused and harassed non-citizen Africans residing in the country. Official harassment during 2006 reflected the frequently encountered belief that foreigners were responsible for high crime rates, as well as a concern for identity card fraud. Harassment of northerners increased markedly after the 2002 rebellion, but in 2006 there was a decline from the levels of the previous year.<sup>25</sup>

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<sup>23</sup> COI Key Documents: Ivory Coast, FCO Country profile 2006: Ivory Coast & USSD 2006 (Section 5)

<sup>24</sup> COI Key Documents: Ivory Coast & USSD 2006 (Sections 1 & 5)

<sup>25</sup> COI Key Documents: Ivory Coast & USSD 2006 (Sections 1 & 5)



- 3.8.5** National identification remained at the heart of the ongoing political crisis in 2006. The United Nations scheme to issue identification cards to approximately 3 million undocumented Ivorians and foreigners born in the country stalled after it led to violent clashes involving President Gbagbo's hard-line supporters the Young Patriots, who alleged that the procedures being used were vulnerable to fraud. However, the peace agreement of March 2007 set a timetable for the identification scheme to resume immediately.<sup>26</sup>
- 3.8.6** **Sufficiency of protection.** If this category of claimants' fear is of ill-treatment/persecution by the state authorities, they cannot apply to these authorities for protection. If this category of claimants' 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.** There were reports in 2006 that persons living in areas under FN control faced some harassment and extortion from local military authorities when trying to travel between towns, and to and from the government-controlled south, but these are not sufficiently serious to prevent freedom of movement. Equally, although security forces and other government agencies operated roadblocks on major roads in the government controlled south during 2006, where they demand that motorists or passengers produce identity and vehicle papers and regularly extort small amounts of money, the Government generally does not prevent internal travel or freedom of movement.<sup>27</sup>
- 3.8.8** Following the peace agreement of March 2007, work has also begun to dismantle the buffer zone which has divided the rebel-held north and the Government-held south for almost four years.<sup>28</sup> Since March 2007, there is little information on whether non-Ivorians and/or Muslims from the north would encounter difficulties in relocating internally were they to face mistreatment at the hands of militias and groups loyal to President Gbagbo. Therefore, caseowners should assess on an individual case by case basis whether internal relocation is a viable option for claimants in this category.
- 3.8.9** **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. There have been problems regarding the disarmament and identification programmes, but there was progress, albeit slow, in 2005 and 2006 towards implementing reforms to enfranchise 'non-citizens' and the peace agreement of March 2007 has set a timetable for the identification scheme to resume. 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, in the light of recent developments, it is unlikely that claimants 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 claimants 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, female genital mutilation (FGM).

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<sup>26</sup> COI Key Documents: Ivory Coast, UNSC: Thirteenth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire, USSD 2006 (Section 5), IRIN: Cote d'Ivoire 'New peace agreement' dated 5 March 2007, IRIN: Cote d'Ivoire 'More violence surrounding identification programme' dated 26 July 2006 & BBC News 'Peace plan for Ivory Coast agreed' dated 4 March 2007

<sup>27</sup> USSD 2006 (Section 2)

<sup>28</sup> IRIN: Cote d'Ivoire 'Peace process moves ahead with talks on buffer zone' dated 12 April 2007 & IRIN: Cote d'Ivoire 'Rival groups start dismantling buffer' dated 17 April 2007

- 3.9.2 Treatment.** FGM is a serious problem in Ivory Coast. In 2006, it was practised most 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. In 2006, there was no decrease in the incidence of FGM from the previous year, and an estimated 60% of women had undergone the procedure. Unlike the previous year, arrests related to FGM were made in 2006. Local NGOs, such as the Djigui Foundation, Animation Rurale de Korhogo, and the National Organization for Child, Woman, and Family, also continued to work to persuade FGM practitioners to turn in their instruments during 2006.<sup>29</sup>
- 3.9.3 Sufficiency of protection.** Ivorian law specifically forbids FGM and imposes on those who perform it criminal penalties of imprisonment for up to 5 years and a fine of approximately US\$720 to US\$4,000 (360,000 to 2 million CFA francs); double penalties apply to medical practitioners. In 2006, the National Committee in Charge of Fighting against Violence against Women and Children, under the Ministry of Women, Family and Children's 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>30</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.** FGM is a regionalised practice concentrated mainly in the north of the country. There were reports in 2006 that persons living in areas under FN control faced some harassment and extortion from local military authorities when trying to travel between towns, and to and from the government-controlled south, but these are not sufficiently serious to prevent freedom of movement. Equally, although security forces and other government agencies operated roadblocks on major roads in the government controlled south during 2006, where they demand that motorists or passengers produce identity and vehicle papers and regularly extort small amounts of money, the Government generally does not prevent internal travel or freedom of movement. Following the peace agreement of March 2007, work has also begun to dismantle the buffer zone which has divided the rebel-held north and the Government-held south for almost four years.<sup>31</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 are unlikely to engage the UK's obligations under the 1951 Convention or the ECHR. Those having undergone, who fear being subjected to, or being forced to carry out, FGM will therefore not encounter ill-treatment amounting to a breach of the 1951 Convention or the ECHR. The grant of asylum or Humanitarian Protection in such cases is therefore unlikely to be appropriate.

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<sup>29</sup> USSD 2006 (Section 5)

<sup>30</sup> USSD 2006(Section 5)

<sup>31</sup> USSD 2006 (Section 2), UNSC: Thirteenth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire, IRIN: Cote d'Ivoire 'Peace process moves ahead with talks on buffer zone' dated 12 April 2007 & IRIN: Cote d'Ivoire 'Rival groups start dismantling buffer' dated 17 April 2007

### 3.10 Prison conditions

- 3.10.1** Claimants 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.
- 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.*** Prison conditions in 2006 were poor and in some cases life threatening in the country's 33 prisons, largely because of inadequate budgets and overcrowding. For example, the country's main prison, MACA, was built for 1,500 but held 4,034 detainees at the end of September 2006. Conditions in MACA were notoriously bad during 2006, 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 brutalised other prisoners for sleeping space and rations. Due to the worsening security situation, in December 2005, Medecins sans Frontieres (MSF) discontinued supplementing the prison system's inadequate medical facilities and contributing to the prison budget. However, several small national and international charities such as the Ivorian Islamic Medical Rescue Association continue to provide food, clothing, legal and medical assistance to prisoners. There were press reports of a flourishing drug trade and prostitution in MACA during 2006. Families frequently supplement the food ration, and at some prisons inmates grow vegetables to feed themselves. In 2006, the International Committee of the Red Cross (ICRC) continued to help feed prisoners with no family.<sup>32</sup>
- 3.10.4** Male minors were held separately from adult men in 2006, but the physical barriers at the main MACA prison were inadequate to enforce complete separation. Minors were not held separately in detention centres. Prison conditions for women remained particularly difficult in 2006. Female prisoners at MACA were segregated in a separate building under female guard. There were continued reports in 2006 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 then returned to prison with their babies. The penitentiary accepts no responsibility for the care or feeding of the infants, although the women reportedly received help from local NGOs.<sup>33</sup>
- 3.10.5** In 2006, the International Catholic Office for Children continued its efforts to assist imprisoned children by helping to locate their families and by maintaining a separate facility for them at the Divo prison. However, during the year, pre-trial detainees continued to be held with convicted prisoners. In 2006, 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>34</sup>
- 3.10.6 *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, even where claimants 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

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<sup>32</sup> USSD 2006 (Section 1)

<sup>33</sup> USSD 2006 (Section 1)

<sup>34</sup> USSD 2006 (Section 1)

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.

**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 favourable grounds be granted Discretionary Leave for a period as set out in the relevant Asylum Instructions.

#### **4.4 Medical treatment**

**4.4.1** Claimants 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** The public health system, including the provision for safe water and sanitation, has been severely disrupted. Health facilities that existed before the outbreak of the conflict in September 2002 in the north and west of the country have closed or operate at best with minimal facilities. Health facilities in the south are over-stretched due to the influx of internally displaced persons in need of medical attention. The outbreak of measles and cholera poses serious health problems. The provision of preventative and reproductive health care has also been negatively affected by the crisis.<sup>35</sup>

**4.4.3** Several aid agencies were present in Ivory Coast during 2005. They included the International Committee of the Red Cross (ICRC), the Ivorian Red Cross, Medecins Sans Frontières, Action Internationale Contre le Faim (AICF), and the United Nations Childrens Fund (UNICEF). In Abidjan, privately-run medical and dental facilities are adequate. Pharmacies are well-stocked with medications produced in Europe, though newer drugs may not be available. Medical care in Ivory Coast outside of Abidjan is extremely limited. Medical treatment of a reasonable standard is available, but can be expensive. Anti-retroviral treatment for AIDS/HIV is available with grants and donations from western governments and international organisations throughout 2003 and 2004 considerably

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<sup>35</sup> COI Key Documents: Ivory Coast & UNSC: Fourth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire

reducing the per-person cost.<sup>36</sup>

- 4.4.4** Where a caseowner considers that the circumstances of the individual claimant and the situation in the country 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>37</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>38</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 claimant 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 *Caselaw.***

**AZ (Ivory Coast) CG [2004] UKIAT 00170.** Risk on return to Ivory Coast. The Tribunal found that the objective evidence does not show there would be a real risk of serious ill-treatment for returned asylum seekers to Ivory Coast. Although they acknowledged that conditions would be difficult there was nothing to show that the conditions would breach the Article 3 threshold (paragraphs 64 and 66).

- 5.4** 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 Border and Immigration 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. Ivorian nationals wishing to avail themselves of this opportunity for assisted return to Ivory Coast should be put in contact with the IOM offices in London on 0800 783 2332 or [www.iomlondon.org](http://www.iomlondon.org).

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<sup>36</sup> COI Key Documents: Ivory Coast & UNSC: Fourth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire

<sup>37</sup> United Nations High Commissioner for Refugees (UNHCR) position paper on the return of failed asylum seekers to Ivory Coast January 2004

<sup>38</sup> UNHCR: Update on International Protection Needs of Asylum Seekers from Cote D'Ivoire



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