

## The Universal Periodic Review Follow-up Committee



### Human Rights Committee (CCPR)

#### Issues to address prior to the examination of the report on Côte d'Ivoire

Submit by 6 May 2024

#### I. Presentation of the reporting organization

The present report is submitted by the Follow-up Committee on the Recommendations of the Universal Periodic Review (UPR Follow-up Committee) and aims to present a report on the human rights situation in relation to civil and political rights. The UPR Follow-up Committee is a platform of Ivorian civil society organizations aiming to monitor the implementation of UPR recommendations, Treaty Bodies and Special Procedures. Its member organizations are divided into four thematic groups, including the Civil and Political Rights thematic group (made up of some fifteen Ivorian CSOs).

Côte d'Ivoire officially ratified the Covenant on Civil and Political Rights on 26 March 1992 and submitted its first report in March 2013, 10 years after its ratification. The country is preparing to submit its second report to the Human Rights Committee under the simplified procedure at the 141st session, to be held from 1 July to 2 August 2024.

#### II. Situation on civil and political rights

##### ✓ *The right to be treated humanely in detention*

- With the aim of lowering the prison population, the Ivorian government initiated a reform of the code of criminal procedure with the adoption of law no. 2019-574 on the code of criminal procedure on 26 June 2019. The new criminal procedure code sets the length of pre-trial detention at 24 months in criminal cases and 18 months in correctional cases.
- On 09 July 2021, the Ivorian government opened the Yamoussoukro's National Judicial Training Institute, along with the Abidjan Continuing Education Centre. The Korhogo's Court of Appeal was inaugurated on 25 November 2022. Also, on 24 February 2023, the San Pedro's Court of First Instance and Remand Prison was officially opened, followed by the Bingerville's Court of First Instance and Juvenile Observation Centre on 13 December 2023.

- The purpose of changing the name of the organization and operational mode of the Abidjan Prison and Correctional Centre (MACA) to the Abidjan Prison Unit (PPA) is aimed at achieving more efficient management, improving security in prisons and providing better monitoring and conditions of detention in accordance with human rights.
- Other measures include the creation of a special training course at the National Institute for Judicial Training (INFJ) dedicated to prison administration, the introduction of community service under article 55 of the Criminal Code, prior acknowledgement of guilt (the guilty plea), and improvements to medical facilities for the care of sick prisoners.
- However, these reforms have had little impact on reducing the prison population (27,731 prisoners to accommodate 8,000 places in 2021) and the rate of unjustified or abusive pre-trial detention remains high. The separation of minors from adults and convicts from remand prisoners has not been achieved in all prisons.
- Efforts to separate male minors and adults have been made in 3 cities (Abidjan, Bouaké and Man), but not for female minors and adults.
- Specific pathologies such as diabetes, tuberculosis, glaucoma, dermatoses, etc. are not fully treated.
- Access to legal aid is not guaranteed until the accused is notified of the charges. There are not enough health workers and ambulances in the prisons, and there is no medical centre in some prisons. A UPR Follow-up Committee member organization's visit to Sassandra prison showed that the prison is dilapidated, and is located in a dead end at the mouth of the Sassandra River. Its proximity to the sea means that it is permanently damp, which has an impact on prisoners' health.
- Another major challenge is the shortage of judicial staff within the judicial institutions (according to the yearbook of judicial and prison statistics published by the planning department in 2020, Côte d'Ivoire has one magistrate for every 36,823 inhabitants, compared with the international standard of one magistrate for every 10,000 inhabitants; one court clerk for every 23,222 inhabitants; one court commissioner for every 58,449 inhabitants, etc.).
- ✓ ***The right of children to be registered after birth and to acquire a nationality***
  - The Ivorian government has issued two interministerial decrees (numbers 836 and 867 of 02 September 2020 on the creation, organization and operation of the national commission on eligibility for stateless status). This has made it possible to set up programmes to grant civil status through mobile court hearings to people (children) without civil status. The National Commission on Eligibility for Stateless Status, which

aims to rule on applications for stateless status, was effectively set up and held its first session on 02 December 2021.

- In August 2021, the government issued 50 certificates of nationality to 50 unidentified children in Daloa.
- A National Action Plan to End Statelessness in Côte d'Ivoire (PANEACI) 2020-2024 is available.
- In addition, secondary civil registry centres have been set up in some maternity wards, and people at risk of statelessness are given judicial and legal assistance when they seek legal redress by the judiciary, lawyers and legal experts from CSOs. In 2020, Côte d'Ivoire had a total of 664 operational civil registry centres, including 463 sub-prefectures and 201 municipalities, which registered births, deaths and marriages. 269 health centres are equipped with "Cityweb", a civil status management software package.
- The UPR Follow-up Committee acknowledges the Government's efforts. However, full implementation of the commitments on statelessness has not yet been achieved. The lack of awareness among the population of the fact that birth registration is free of charge and the remoteness of certain civil status centres remain a challenge for the systematic identification of all births in Côte d'Ivoire.
- There are still millions of unregistered children Côte d'Ivoire. According to the 2014-2020 statistics yearbooks, the birth registration rate in Côte d'Ivoire is 77.8% (UNHCR).
- Several families have not been registered themselves and therefore do not have the legal documents to register their children. According to the Ministry of the Interior and Security, the birth registration rate in Côte d'Ivoire has increased from 58% in 2018 to 68% in 2021.
- However, despite the holding of mobile court hearings, some communities are still a long way from civil registry offices. The cost (500 CFA francs (XOF)) remains high for some parents, despite the efforts made.

✓ ***The right to freedom of expression***

- On 16 April 2024, the National Assembly passed the Electronic Communications Act which is likely to restrict press freedom. Article 214(3) of the said law stipulates that "anyone who intercepts, discloses, publishes or uses the content of electronic messages, or reveals their existence" could be sentenced to five years in prison and a fine of ten million CFA francs (around US\$16,500). These provisions might discourage

journalists from pursuing certain investigations and thus restricting the freedom of the press, which derives from the freedom of expression.

- Moreover, this provision would undermine Côte d'Ivoire's considerable progress in protecting fundamental freedoms. Indeed, freedom of information and freedom of expression, enshrined in Articles 18 and 19 respectively, from which freedom of the press derives, are rendered meaningless. It is therefore necessary to rule on the unconstitutionality of this law, which is awaiting promulgation by the President of the Republic.
- In addition, the aforementioned law is also controversial in relation to other texts, namely Law No. 2018-570 of 13 June 2018 on the protection of witnesses, victims, whistleblowers, experts and other relevant persons. We are particularly interested in this law, which aims to protect several types of people, in the case of the whistleblower. In other words, a person who tells someone in authority about something illegal that is happening. Essentially, certain provisions of Law No. 2018-570 of 13 June 2018 on the protection of witnesses, victims, whistleblowers, experts and other relevant persons are contrary to paragraph 3 of Article 214 of the Electronic Communications Act. In the case in question, the first paragraph of Article 3, which sets out the purpose of the law, states that "*This law applies to a witness, victim, whistleblower, expert or any other relevant person whose life, physical integrity or assets, or those of his or her relatives or the assets of the legal entity that he or she represents, are in danger, due to his or her collaboration or willingness to collaborate in judicial or extrajudicial truth-finding proceedings*". In addition, article 7 of the aforementioned law lists the rights of the whistleblower, "*the right to denounce any violation of human rights*" referred to in point 15.
- As a result, a whistleblower who has provided information because of his or her willingness to collaborate in an extrajudicial truth-finding procedure and/or has denounced any violation of human rights through the press would be liable to the penalty provided for in paragraph 3 of article 214 of the Electronic Communications Act<sup>1</sup>.

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<sup>1</sup> 'RSF requests protection for journalists in Côte d'Ivoire's electronic communications bill', Reporters without Borders, 19 March 2024, <https://rsf.org/en/rsf-requests-protection-journalists-c%C3%B4te-divoire-s-electronic-communications-bill>

<sup>2</sup> 'Côte d'Ivoire: le gouvernement suspend toutes manifestations sur la voie publique', Abidjan.net, 20 August 2020, <https://news.abidjan.net/articles/678439/index>

<sup>3</sup> Côte d'Ivoire', Amnesty International 2020/21, April 2021, <https://www.amnesty.org/en/documents/pol10/3202/2021/en/>

<sup>4</sup> 'Une manifestation de l'opposition dispersée par la police à Abidjan', BBC, 21 August 2020, <https://www.bbc.com/afrique/region-53833102>

<sup>5</sup> 'Côte d'Ivoire: une trentaine de producteurs de café-cacao arrêtés au Plateau au cours d'une manifestation', Afriksoir, 10 May 2023, <https://afriksoir.net/cote-divoire-une-trentaine-de-producteurs-de-cafe-cacao-arretes-au-plateau-au-cours-dune-manifestation/>

✓ ***The right of peaceful assembly***

- On 19 August 2020, the Council of Ministers banned all public demonstrations up to 15 September 2020<sup>2</sup>. This ban was extended several times and remained in force until 15 December 2020<sup>3</sup>. On 21 and 22 August 2020, despite the ban, demonstrations against Alassane Ouattara's candidacy for another term in office broke out. In Abidjan, the security forces used tear gas to scatter demonstrators in Yopougon's suburb, while a large number of security agents were deployed in Cocody to dissuade protesters from demonstrating<sup>4</sup>.
- Demonstrators, including human rights defenders, are frequently arrested during demonstrations and prosecuted in some cases. On 10 May 2023, dozens of coffee and cocoa producers and members of the Centrale syndicale agricole of Côte d'Ivoire were arrested during a demonstration in the Plateau municipality to demand the payment of 17 million CFA francs from the COVID-19 fund<sup>5</sup>. On 12 May 2023, they were released free of charge after being questioned by an examining magistrate on charges of "disturbing the peace".<sup>6</sup>
- On 28 December 2022, the court of Plateau sentenced 45 members of the Collectif des docteurs non recrutés to four-month suspended prison sentences after finding them guilty of "disturbing public order" for taking part in a peaceful sit-in on 21 December 2022<sup>7</sup>. On 25 November 2022, four activists from the CSO Urgences ivoiriennes were arrested during a peaceful demonstration in Abidjan against the rising cost of living<sup>8</sup>.

✓ ***The right to equality between women and men***

- The representation of women in decision-making bodies in Côte d'Ivoire has improved significantly in recent years. This is reflected in the body of legislation put in place by the government to improve the status of women in Côte d'Ivoire. Ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the 2016 Constitution (Articles 35, 36 and 37) and Law No. 2019-870 of 14 October 2019 promoting the representation of women in elected assemblies have all given legal weight to the consideration of women's voices in the country.
- The provisions of Articles 36 and 37 of the Ivorian Constitution refer to the participation of women in elected assemblies, and Article 4 of Law No. 2019- 870 of 14

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<sup>6</sup> 'Fonds COVID-19: 24 producteurs interpellés mercredi, libérés par la justice ivoirienne', Top News Africa, 12 May 2023, <https://topnewsafrika.net/news/fonds-covid-19-24-producteurs-interpelles-mercredi-liberes-par-la-justice-ivoirienne>

<sup>7</sup> 'Côte d'Ivoire: 45 docteurs-chômeurs condamné à quatre mois de prison avec sursis', Afriksoir, 28 December 2022, <https://afriksoir.net/cote-divoire-45-docteurs-chomeurs-condamnes-a-4-mois-de-prison-avec-sursis/>

<sup>8</sup> 'Arbitrary detention and arrest of four human rights defenders', Front Line Defenders, 6 December 2022, <https://www.frontlinedefenders.org/en/case/arbitrary-arrest-and-detention-four-human-rights-defenders>

October 2019, with its minimum quota of 30% of women out of the number of candidates presented, promotes the representation of women in elected assemblies and even within political parties or political groupings whose lists include at least 50% women candidates. Candidates for the September 2023 elections had to meet the 30% quota, and the Independent Electoral Commission (CEI) congratulated the candidates on meeting this condition. However, maintaining the list after the elections remains a challenge.

- However, Act no. 2019-870 of 14 October 2019 promoting the representation of women in elected assemblies has not been enforced and the electoral code has not been harmonized with this law.
- The representation of women in decision-making bodies and political spheres remains a challenge. Current statistics show that there are 34 women Members of Parliament out of 255, i.e. 13.33%; 24 women out of 99 senators, i.e. 23.76%; 16 women elected out of 201 mayors, i.e. 7.96%; 29 women out of 113, i.e. 25.66% in the Economic, Social, Environmental and Cultural Council (CESEC) and just one woman out of 31 presidents of regional councils, i.e. 3.33%.
- Despite the adoption of the law on the 30% quota in 2019, women are under-represented in decision-making bodies and political spheres. At election time, courageous women candidates are victims of misinformation and hate speech.
- Non-discrimination relating to marriage and filiation: The law on marriage no. 64-375 of 7 October 1964 has been amended to address discrimination against women. Indeed, with the new law n° 2019-570 relating to marriage and law n°2019-571 relating to filiation of 26 June 2019 have resulted in significant changes with regard to marriage and filiation. Regarding marriage, the age requirement has been harmonized at 18 years for both men and women. The deduction of income tax has also been adjusted. The matrimonial property regime has been revised with the introduction of the marriage contract by notarial act, which joins the regime of community of property reduced to acquets and separation of property. This text has been incorporated into the application for a change of matrimonial property regime. This means that it is now possible for one of the spouses to apply for a change of regime (art. 62), unlike under the old law, which required a joint application by the spouses. The other improvement concerns joint property, other than the spouses' earnings and income, which is administered by one or other of the spouses (art. 82), unlike the former law, which entrusted the management of all such joint property to the husband alone (art. 79 former law). Marriage may not be contracted by a man or a woman under the age of eighteen (art. 2).
- Harmonization of the marriageable age of men and women and prohibition of early marriage. The consent of future spouses must be free and informed.

- The impact of Law No. 2013-33 of 25 January 2013 on the status of married women:
  - Joint management of the household by the spouses (Art 58). This provision helps to reduce inequalities between husband and wife. The concept of head of the family is abandoned.
  - Equal contribution of spouses to household expenses (Art 59).
  - The principle of the choice of marital home by joint decision of the spouses (Art 60). The joint and concerted choice of marital home by both spouses.
  - Equality of the spouses in the choice of a profession (Art 67).
  - Equality in the calculation of General Income Tax (IGR) (women are subject to the same tax as men), which was not previously the case.
  - A man may inherit his wife's property in the event of her death (articles 26, 27 and 36 of the Inheritance Act 2019-573 of 26 June 2019). Previously, a man could not receive his late wife's pension, but now thanks to this law this inequality has been rectified.
- Compliance with the waiting period of 300 days from the dissolution of the marriage, for the remarriage of the wife.
- Filiation: Every child has the right to establish his filiation with regard to his parents; a child born during marriage or less than three hundred days after the dissolution of the marriage has his mother's husband as his father.
- Order of succession (art. 26): The children or their descendants and the surviving spouse succeed to the estate of the deceased. Three quarters of the estate devolve to the children or their descendants and one quarter to the surviving spouse. If there is no surviving spouse, the children or their descendants alone succeed to the estate of the deceased. If there are no children or their descendants, one half of the estate devolves to the father and mother of the deceased, and the other half to the surviving spouse (art. 27). If there is no surviving spouse, one half of the estate devolves to the father and mother, the other half to the brothers and sisters of the deceased. In the absence of a father and mother, one half of the estate devolves to the surviving spouse, the other half to the brothers and sisters of the deceased. If there is no surviving spouse and no father or mother, the estate devolves to the brothers and sisters of the deceased. In the absence of a surviving spouse and brothers and sisters of the deceased, the estate devolves to the father and mother of the deceased. In the absence of the father and mother and brothers and sisters of the deceased, the estate devolves to the surviving spouse. In the absence of a surviving spouse, father and mother and brothers and sisters of the deceased, the estate devolves to the other ascendants and other collaterals up to the sixth degree.

✓ ***Situation of human rights defenders***

- The Ivorian government has adopted Law No 2014-388 of 20 June 2014 on the promotion and protection of human rights defenders, Decree No 2017-121 of 22

February 2017 on the implementation of Law No 2014-388, of 20 June 2014 on the promotion and protection of human rights defenders and Decree No. 2021-617 of 20 October 2021 amending Decree No. 2017-121 of 22 February 2017 on the implementation of Law No. 2014-388 of 20 June 2014 on the promotion and protection of human rights defenders.

- The government has also set up a mechanism for the protection of human rights defenders, known as the "Committee for the Protection of Human Rights Defenders", which has been operational since March 2022. This mechanism is chaired by the Ministry of Human Rights, vice-chaired by the Ministry of the Interior and Security, and the other members are the Ministry of Defense and the National Human Rights Council<sup>9</sup>.
- Despite the existence of the law and the Committee for the Promotion and Protection of Human Rights Defenders, some human rights defenders (defenders working on the extractive industry, governance, minority rights and GBV) are regularly exposed to threats and intimidation. In March 2023, a civil society activist was threatened and intimidated following the publication of the report on the investigation carried out by her organization (CPDEFM)<sup>10</sup> into "sexual violence at university: the case of sexual harassment at the Félix Houphouët Boigny University".
- The failure to include human rights defenders as members of the mechanism for the protection of human rights defenders set up in March 2022.
- In the 2020 electoral context, an interministerial order was issued suspending public marches and other demonstrations<sup>11</sup>. This order was extended during the electoral period. No new order was issued after the elections to repeal the previous orders.
- The arrest of some members of civil society organizations: in August 2020, the President of Alternative Citoyenne Ivoirienne (ACI) and two of her colleagues were arrested; she was arrested again in August 2022; on 25 November 2022, some members of the Urgence Ivoirienne organisation, which had called for peaceful demonstrations against the high cost of living, were arrested.
- Journalists have been arrested for articles they have published, deemed to have incited public disorder and defamation (e.g. journalists from the print media "nouvelles générations" and "le temps" in 2020).<sup>2</sup>
- Non-compliance with certain provisions (Articles 3 and 4) of the law protecting defenders, the Ivorian Constitution and international legal instruments ratified by the

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<sup>9</sup> Adoption de l'arrêté interministériel portant création du mécanisme de protection des défenseurs des droits de l'homme – ciddh (ci-ddh.org)

<sup>10</sup> Citoyennes pour la Promotion et la Défense des Droits des Enfants, Femmes et Minorités (CPDEFM)

<sup>11</sup> Côte d'Ivoire: cette interdiction de manifester qui tend le climat politique (lepoint.fr)



Ivorian government in relation to the right to freedom of demonstration and freedom of expression.

### III. Suggested questions to the government of Côte d'Ivoire

#### ✓ *The right to be treated humanely in detention*

- Despite the efforts of the Ivorian government, the number of people held in pre-trial detention remains high. How do you plan to resolve this problem in the long term?
- What plans do you have to increase the number of lawyers in judicial institutions and the number of health and ambulance staff in prisons and jails?
- How do you plan to equip prisons with medical centers to guarantee prisoners' right to health?
- What plans does the Ivorian government have to rehabilitate its dilapidated prisons?
- Why is the time limit for pretrial detention not respected? Why is pleading guilty so rarely used?
- What measures do you plan to take to ensure the effective separation of minors and adults in women's prisons?

#### ✓ *The right of children to be registered after birth and to acquire a nationality*

- What does the government plan to do to facilitate the process from the declaration of birth to the issue of a birth certificate?
- What is standing in the way of the full computerization of the civil registry system, so that files can be accessed throughout Côte d'Ivoire and thus facilitate the renewal of birth certificates and the issuing of certificates of nationality?
- Why is digital civil status not yet available?
- How do you intend to resolve the situation of several families who have no legal documents?
- What do you plan to do to implement the commitments made to fight against statelessness?

#### ✓ *The right to freedom of expression*

- How does the Ivorian government intend to guarantee freedom of information, freedom of expression and, subsequently, freedom of the press?
- Doesn't the law on electronic communications adopted by the National Assembly on April 16, 2024 favor certain illegal practices and their impunity, notably those contrary to good governance? Wouldn't this law liberticide?

✓ ***Freedom of demonstration and peaceful assembly***

- How does the government intend to guarantee freedom of demonstration for the citizen and for human rights defenders in accordance with Article 3 of Law n°2014-388 of June 20, 2014 on the promotion and protection of human rights defenders and Article 20 of the 2016 Constitution?
- When do you intend to repeal the interministerial order banning public demonstrations?

✓ ***Equality between men and women***

- How do you intend to ensure the effectiveness of Law n°2019-870 of October 14, 2019 favoring the representation of women in elected assemblies?
- What mechanism do you plan to implement to guarantee and encourage female candidacies in elections?
- How will you combat misinformation and hate speech against women candidates?
- What mechanism has the government implemented to guarantee the effectiveness of non-discrimination with regard to marriage and filiation?

✓ ***Human rights defenders***

- How do you intend to make the Defenders Protection Mechanism more effective, proactive and alert in protecting defenders at risk?
- How does the government intend to inform human rights defenders about this mechanism?
- How does the government plan to protect anti-corruption defenders and whistleblowers?