

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report

Universal Periodic Review: 3rd Cycle, 33rd Session

COTE D'IVOIRE

I. BACKGROUND INFORMATION

Cote d'Ivoire acceded to the *1951 Convention Relating to the Status of Refugees* in 1961 and to its *1967 Protocol* in 1970. In 2013, the country acceded to the *1954 Convention Relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness*. It is also a member of the *1969 Convention governing the specific aspects of refugee problems in Africa*. Cote d'Ivoire is also party to the *2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)* as well as to a number of international human rights treaties, including the *International Covenant on Civil and Political Rights (ICCPR)*, the *Convention on the Elimination of Discrimination against Women (CEDAW)*, the *Convention on the Rights of the Child (CRC)* and the *Convention on the Rights of Persons with Disabilities (CRPD)*.

The persons under UNHCR's mandate in Cote d'Ivoire include refugees and asylum seekers, returnees and stateless persons. Cote d'Ivoire hosts 1,785 refugees and 241 asylum-seekers.¹ Ivoirian nationals who have enjoyed asylum in Liberia, Ghana and Togo are returning to Cote d'Ivoire under UNHCR's voluntary repatriation program. The returnee population currently assisted by UNHCR is roughly 20,000 people.

By contrast, the number of persons who are stateless in Cote d'Ivoire is estimated to be one of the highest in the world. In 2013, the Ministry of Justice indicated that as many as 700,000 persons living in Cote d'Ivoire may be stateless or at risk of statelessness. The stateless population includes the following categories of persons: historical migrants brought to Cote d'Ivoire during the colonial period from territories that now pertain to Burkina Faso, Mali and other countries; other historical migrants who arrived following independence also from neighbouring countries; foundlings (or children of unknown parentage); contemporary migrants; certain categories of children of Ivorian refugees born abroad; and certain populations living in border areas.

The current Government has taken measures to address the issue of statelessness in Côte d'Ivoire. In 2014, Côte d'Ivoire adopted a special law creating a temporary program allowing eligible individuals to acquire Ivorian nationality by declaration. In 2015, the country hosted the Ministerial Conference on Statelessness in West Africa, where the *Abidjan Declaration* was adopted. With endorsement from other ECOWAS Member States, the *Abidjan Declaration* represents the first sub-regional commitment to prevent and eliminate statelessness. As follow-up, all ECOWAS Member States adopted in 2017 the *Banjul Action Plan on the Eradication of Statelessness*, a legally binding document applicable to all parties therein. In 2018, Cote d'Ivoire hosted the 3rd Expert Meeting of the African Union Member States to negotiate the draft *Protocol on the Specific Aspects of the Right to Nationality and Eradication of Statelessness* to the *African Charter on Human and Peoples' Rights*.

¹ UNHCR Operational Portal – Côte d'Ivoire. Data from 30 September 2018.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Positive developments linked to 2nd cycle UPR recommendations

Linked to 2nd cycle UPR recommendations no. 127.43: “Take measures both in legislation and practice to ensure the rights of children, including access to education and health, birth registration, combating child labour and violence against them” (Costa Rica); **recommendation no. 127.87:** “Extend the deadline for late registration of births and put in place a simple and free birth registration procedure as well as a national strategy to raise awareness on the importance of birth registration” (Hungary); and **recommendation no. 127.83:** “Continue to move forward through the adoption of all measures and policies that can achieve greater efficiency in the promotion and protection of human rights, and the promotion of the rule of law.” (Burundi)

The Ivorian Government and UNHCR have continued to work in close partnership to guarantee a successful voluntary return and reintegration programs for Ivorian nationals who enjoyed asylum in other countries. Moreover, the Government recognized that ending statelessness in Cote d’Ivoire is a key component of restoring long-term peace and stability in the country. It has also undertaken a number of concrete initiatives to bring into effect its commitments under the *Abidjan Declaration*, namely: the appointment of a statelessness focal point within the Ministry of Justice; development of a National Action Plan to end statelessness, which is yet to be adopted; and coordination of a qualitative and quantitative mapping exercise of stateless persons.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Adoption of national legislation on asylum

Linked to 2nd cycle UPR recommendation no. 127.83: “Continue to move forward through the adoption of all measures and policies that can achieve greater efficiency in the promotion and protection of human rights, and the promotion of the rule of law.” (Burundi)

The Ivorian asylum system provides minimum standards for the treatment of asylum seekers. Two executive decisions (*arrêtés*)² were adopted in 2007 for the creation of the National Eligibility Commission and the Appeals Commission. These documents establish a regular first instance procedure that allows for a right to appeal decisions as well as special procedures for particular asylum application, such as those requiring an expedite decision given urgent protection risks. Côte d’Ivoire is yet to adopt its *Asylum Law*, which would ensure the legitimacy of the procedures currently in place. A draft law has been elaborated but has not yet been shared with the Council of Ministers for deliberation prior to passing before the Parliament for adoption.

Recommendations:

UNHCR recommends that the Government of Cote d’Ivoire:

- (a) Adopt an asylum law that establishes concrete admissibility criteria for asylum applications, ensures rapid and impartial consideration of asylum claims, and provides effective procedural safeguards for asylum applicants in compliance with the provisions of the *1951 Convention*.

Issue 2: Ratification of international human rights treaties

Linked to 2nd cycle UPR recommendation no. 127.1: “Consider the accession to core human rights instruments (Lesotho); and to other main international human rights treaties that it is not yet a party to.” (Philippines)

² National Legislative Bodies / National Authorities, Côte d’Ivoire: Arrêté No. 46 MAE/AGH/SDAH/SAARA du 2007 portant création, organisation et fonctionnement de la Commission nationale d’éligibilité au statut de réfugié, 1 February 2007, available at: <http://www.refworld.org/docid/49fff7572.html> [accessed 9 October 2018].

National Legislative Bodies / National Authorities, Côte d’Ivoire: Arrêté No. 47 MAE/AGH/SDAH/SAARA du 2007 portant création, organisation et fonctionnement de la Commission de recours au statut de réfugié, 1 February 2007, available at: <http://www.refworld.org/docid/49fff7cb2.html> [accessed 9 October 2018].

Since its second UPR in 2014, Cote d'Ivoire has acceded to the *Statelessness Conventions*. However, it has not taken further steps to ratify key human rights treaties. The domestication of obligations undertaken according to other international instruments is also pending. This is the case, for instance, of the *Kampala Convention*.

Recommendations:

UNHCR recommends that the Government of Cote d'Ivoire:

- (a) Consider ratifying the key human rights treaties, including the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*; and
- (b) Adopt measures to effectively implement the provisions of the *Kampala Convention* and pursue the implementation of the *Statelessness Conventions*.

Additional protection issues

Issue 3: Prevention of statelessness and ensuring the right to nationality

Despite recent efforts and commitments, the Government's approach to identifying, reducing and preventing statelessness insufficiently responds to several key protection needs. In particular, the Government of Cote d'Ivoire has not yet reformed its *Nationality Code*, which contains a number of problematic articles that may contribute to statelessness, particularly for historical migrants and foundlings. Moreover, a number of provisions of the *Nationality Code* are incompatible with Côte d'Ivoire's international obligations vis-à-vis the *Statelessness Conventions*, but also with other core international human rights instruments ratified by the country, such as *ICCPR*, *CRC* and *CRPD*.³ For instance, Art. 32 of the Ivorian *Nationality Code* contains a provision that may discriminate against persons with disability, as the state of mental and physical health conditions are examined as part of the criteria to grant nationality by naturalization. Furthermore, Art. 45 of the Ivorian *Nationality Code* discriminates against women in the sense that only naturalized women who are widows are able to pass their nationality onto their children.

On a procedural level, Cote d'Ivoire has not yet introduced a mechanism for stateless persons to regulate their status through the courts or through an administrative process. No facilitated avenue for naturalization exists for stateless persons. While judicial procedures exist to address cases of disputed or unclear nationality in Cote d'Ivoire, the process remains untested, complicated and difficult to access. The implementation of the National Action Plan will therefore require considerable budgetary allocations.

Recommendations:

UNHCR recommends that the Government of Cote d'Ivoire:

- (a) Reform the *Nationality Code* in line with the *Statelessness Conventions*, in order to:
 - Stipulate a clear *jus sanguinis* regime with recognition of *double jus soli* and eliminate references to the generic term "foreigners";
 - Eliminate provisions that may produce discriminatory effects against women, persons with disability or other persons that may be at risk of statelessness;
 - Recognize Ivorian nationality to persons who would otherwise be stateless and to children of unknown parents;
- (b) Complete the mapping of stateless persons in the country and consider producing an official report on statelessness with specific action items;
- (c) Consider extending the applicability of special program allowing for acquisition of nationality by declaration with clear eligibility criteria and more flexible standards of proof;
- (d) Improve the registration of births by facilitating access to such procedures and raising awareness of the importance of birth registration, in particular among populations at risk of statelessness;

³ Article 31 and 32 of the Ivorian Nationality Code run the risk of discrimination in violation of Article 18 of the Convention on the Rights of Persons with Disabilities.

- (e) Establish clear procedures for adjudication of nationality cases;
- (f) Establish a clear statelessness determination procedure in line with the *1954 Convention Relating to the Status of Stateless Persons*.
- (g) Facilitate access to procedures regarding identity documents, including by reducing costs, training local officials, creating mobile documentation clinics for rural areas and providing free legal assistance; and
- (h) Establish bilateral agreements with neighbouring States to determine the status of persons with undetermined or contested nationality.

UNHCR
October 2018

ANNEX

Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

CÔTE D'IVOIRE

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Côte d'Ivoire.

I. Universal Periodic Review (Second Cycle – 2018)

Recommendation ⁴	Recommending State/s	Position ⁵
Ratification of international instruments		
127.3 Ratify the OP-CAT (Ghana, Tunisia), as recommended previously in 2009 (Czech Republic) and take policy measures to prevent torture and ill-treatment;	Estonia	Supported
127.6 Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW);	Ghana	Supported
127.9 Ratify ICCPR-OP 2 (Rwanda) to abolish death penalty;	France, Montenegro	Supported
127.13 Ratify the third Optional Protocol to CRC;	Portugal	Supported
Refugees		
127.167 Continue to create the conditions to facilitate the voluntary repatriation of Ivorian refugees in accordance with the Tripartite Agreement;	Ghana	Supported
Internally displaced persons		
127.168 Adopt additional measures that tend to develop a comprehensive strategy that tends to address the needs of IDPs and provide sustainable solutions;	Argentina	Supported
Human rights defenders		
127.30 Swiftly adopt the law on the protection of human rights defenders by the Ivorian Parliament, and its immediate implementation;	Czech Republic	Supported
Sexual and gender-based violence		
127.33 Intensify its efforts to combat violence against women by criminalizing and implementing comprehensive laws prohibiting sexual and gender-based violence and female genital mutilation, and by providing the necessary support to victims of sexual and gender-based violence;	Liechtenstein	Supported

⁴ All recommendations made to Côte d'Ivoire during its 2nd cycle UPR as well as a number of the country's views and replies can be found in: "Report of the Working Group on the Universal Periodic Review of Côte d'Ivoire" (7 July 2014), A/HRC/27/6, available at:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/075/83/PDF/G1407583.pdf?OpenElement>.

⁵ The views and replies of Côte d'Ivoire, in English, can be found in: *Addendum* (10 September 2014), A/HRC/27/6/Add.1, available at:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/160/23/PDF/G1416023.pdf?OpenElement>.

127.35 Take necessary steps to enforce laws covering violence, including sexual violence, against women and girls and support to victims to ensure that perpetrators are sanctioned;	Norway	Supported
127.38 Adopt a comprehensive law on violence against women;	South Africa	Supported
127.39 Carry on the legislative amendments to repeal all discriminatory provisions against women and adopt a comprehensive law on violence against women;	Turkey	Supported
127.61 Take effective action to protect women and children from sexual violence, including by strengthening and implementing legislation against domestic violence and providing counselling services and safe places for victims;	Germany	Supported
127.119 Strengthen mechanisms which facilitate access to justice for victims of atrocities including sexual violence;	Sierra Leone	Supported
127.124 Strengthen the judiciary and police bodies for the prevention of sexual violence, in particular through increasing the number of women and their visibility in the police and the justice system;	Portugal	Supported
Equality and non-discrimination		
127.102 Take all necessary measures to further promote the rights of women and girls, including abolishing all discriminatory laws, implementing the national action plan to combat sexual violence and ending female genital mutilation;	Brazil	Supported
Birth registration		
127.87 Extend the deadline for late registration of births and put in place a simple and free birth registration procedure as well as a national strategy to raise awareness on the importance of birth registration;	Hungary	Supported
127.152 Continue the efforts to facilitate the registration of births and create awareness of the importance of this procedure, which allows access to all other rights and basic services such as education and health;	Turkey	Supported
127.153 Conduct awareness campaigns to promote birth registration of all children and take the necessary measures to ensure easy and effective access to free birth registration for the newborn;	Mexico	Supported
Detention		
127.106 Consider incorporating the UN Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, otherwise known as the “Bangkok Rules”, as part of its programme to enhance the condition of detainees in prisons;	Thailand	Supported
127.108 End all arbitrary detention and strengthen the capacity on the judicial system as addressed in the country report following the previous Universal Periodic Review;	Norway	Supported
Trafficking and exploitation		
127.111 Intensify the initiatives aimed at both preventing child and women trafficking, child labour, forced prostitution, and facilitating the social reintegration of the victims;	Italy	Supported
127.112 Take necessary measures to eliminate worst forms of child labour, specifically in mining, forced begging, and commercial sexual exploitation;	United States of America	Supported
Access to justice and accountability		
127.136 Continue to fight impunity by pursuing crimes that occurred during or in conjunction with the post-electoral conflict and previous conflicts in the country, regardless of which side in the conflicts the perpetrators belonged to. This includes continuing cooperation with the International Criminal Court;	Sweden	Supported

127.141 Investigate, and when appropriate, prosecute perpetrators of serious crimes, including abuses perpetrated by both sides of the post-election violence, on a non-discriminatory basis and regardless of their ethnic, religious, or A/HRC/27/6 GE.14-07583 23 political affiliations, to promote national reconciliation and the rule of law;	United States of America	Supported
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II. Treaty Bodies

Human Rights Committee

Concluding Observations, (28 April 2015), [CCPR/C/CIV/CO/1](#)

Discrimination based on sexual orientation

8. The Committee is concerned about reports that lesbians, gays, bisexuals and transgender persons are subjected to discrimination, harassment, threats of physical violence and intimidation and about the impunity enjoyed by the perpetrators of such acts. The Committee is concerned, in particular, about the provisions of article 360 of the Criminal Code, which provides for an aggravation of the minimum penalty prescribed for “gross indecency” when such conduct “consists of an indecent or unnatural act with an individual of the same sex” (arts. 2 and 26).

The State party should enact a general law against discrimination with a view to incorporating the prohibition of discrimination included in the Covenant and enshrined in the Constitution. The State party should also take the necessary steps to protect lesbians, gays, bisexuals and transgender persons against all forms of discrimination, intimidation and violence. The State party should amend the provisions of article 360 of the Criminal Code and any other provision of its criminal legislation that discriminates against persons because of their sexual orientation.

Protection of persons with albinism

9. The Committee is concerned about reports that persons with albinism continue to be exposed to discrimination and negative stereotyping. It is also concerned about the inadequacy of the measures taken to protect persons with albinism against all forms of discrimination (arts. 2 and 26).

The State party should take steps to ensure that persons with albinism are protected, in law and in practice, against all forms of discrimination.

Prohibition of torture and ill-treatment

16. The Committee is concerned about the numerous cases of torture by the police, defence and security forces, particularly at the National Surveillance Directorate (DST) and the Centre for the Coordination of Operational Decisions, and by the Republican Forces of Côte d’Ivoire. It is also concerned about reports that torture has neither been defined nor criminalized in the Criminal Code, so that it is difficult to institute prosecutions for torture. The Committee is concerned, in addition, about allegations that perpetrators of acts of torture enjoy impunity, and it notes the lack of information concerning investigations, prosecutions and convictions for acts of torture in the report of the National Commission of Inquiry and concerning those conducted in the State party during the period from 2000 to 2010. Furthermore, the Committee is concerned about the lack of an independent and effective mechanism for receiving and investigating allegations of torture by the police and defence forces. The Committee notes with concern that, according to the provisions of article 419 of the Code of Criminal Procedure, courts are not prohibited from admitting confessions obtained by means of torture (arts. 7 and 14).

The State party should ensure that the relevant provisions of its legislation allow for the prosecution of acts that would qualify as torture. It should also prevent torture from being practised in its territory and ensure that allegations of torture and ill-treatment by the police, security and defence forces, including acts perpetrated during the period from 2000 to 2010 and those mentioned in the report of the National Commission of Inquiry, are thoroughly investigated; it should ensure that the perpetrators are prosecuted and, if they are found guilty, sentenced to appropriate penalties and that the victims are properly compensated and offered rehabilitation services. The State party should, in addition, establish an independent mechanism for investigating complaints of acts of torture and ill-treatment perpetrated by members CCPR/C/CIV/CO/1 6 GE.15-08407 of the police and security forces. The State party should ensure that confessions or testimony obtained under torture are systematically declared inadmissible by the courts at any stage of the proceedings.

Human trafficking and child labour

17. The Committee notes with concern the persistence of human trafficking in the State party for the purpose of forced prostitution or labour exploitation and of child labour, particularly in agriculture and trade. It expresses regret at the lack of information regarding convictions and the leniency of the penalties imposed (arts. 8 and 24).

The State party should investigate all cases of human trafficking and child labour and step up its campaigns to raise public and family awareness of human trafficking and child labour.

Police custody, pre-trial detention and basic legal guarantees

18. The Committee is concerned that the prescribed 48-hour period of police custody, which may be renewed once, is not always respected, for instance by the DST. The Committee is also concerned about the disproportionate use of pre-trial detention, which results in excessive and abusive periods of detention, exceeding the legal limit by as much as several years, for a very large number of people, including those detained in connection with the post-election crisis of 2010–2011. It is concerned that basic legal guarantees, in particular the obligation to inform persons of their rights, the right to have access to a lawyer and a doctor, the right to communicate with family members and the right to be brought promptly before a judge, are often not respected. The Committee is concerned, in addition, about reports of the lack of regular monitoring of the legality of detention and of cases of detention without any legal basis on DST premises (arts. 9, 10 and 14).

In the light of the Committee's general comment No. 35 (2014) on liberty and security of person, the State party should, in compliance with the Covenant and in the context of the current reform of the Criminal Code and the Code of Criminal Procedure: (a) take the necessary steps to ensure respect for the prescribed periods of police custody and pre-trial detention in order to prevent abusive and excessive periods of detention; (b) take steps to ensure regular monitoring of the lawfulness of detention, particularly at the DST; (c) take steps to terminate unlawful detention on DST premises; and (d) take steps, as a matter of urgency, to address the situation of persons who have been in pre-trial detention for years, especially those detained in the context of the postelection crisis of 2010–2011. The State party should also systematically ensure that persons held in police custody or pre-trial detention are informed of their rights and that the above-mentioned basic legal guarantees are respected, particularly the right to have access to a lawyer. Lastly, it should ensure that detainees who have served their sentences are released as soon as possible.

Conditions of detention

19. The Committee notes with concern that conditions of detention are substandard in almost all prison facilities in the State party. It is particularly concerned about the very high rate of overcrowding, especially at the Abidjan Detention and Correctional Facility, and notes the high

percentage of persons in pre-trial detention in the State party's prisons. The Committee is also concerned about reports of unsatisfactory hygienic conditions, inadequate medical care and the poor quality of food served to inmates. The Committee is concerned, in addition, about the failure to respect the principle of separation between adults and minors and between remand and convicted prisoners. It regrets the lack of information concerning the effectiveness of the mechanism for receiving complaints from detainees (arts. 9 and 10).

The State party should step up its efforts to improve the living conditions and treatment of persons held in custody, including their access to proper medical care, and continue to take steps to address the problem of overcrowded prisons in accordance with the Standard Minimum Rules for the Treatment of Prisoners. It should ensure that persons do not remain in pre-trial detention beyond the prescribed time limits and should introduce a genuine policy on the use of non-custodial penalties. It should take the necessary steps to separate prisoners by age, sex and custodial status.

Freedoms of expression and of assembly and association

21. The Committee is concerned about reports of sanctions, even in some cases temporary publication bans, imposed on certain media, including those of the political opposition. The Committee is also concerned about reports of assaults on freedom of association and assembly involving prohibitions on demonstrations in the State party by certain opposition political parties and certain non-governmental organizations. While noting with satisfaction that the State party adopted Act No. 2014-388 of 20 June 2014 on the promotion and protection of human rights defenders, the Committee remains concerned about reports of threats and acts of harassment and intimidation against human rights defenders and notes that the said Act has not yet been promulgated. In addition, the Committee is concerned about the fact that such infringements are not always followed by investigations, prosecutions, convictions and punishment of the perpetrators (arts. 19, 21 and 22).

In the light of the Committee's general comment No. 34 (2011) on freedom of opinion and expression, the State party should ensure that any restriction on press and media activities is in strict compliance with the provisions of article 19, paragraph 3, of the Covenant. The State party should also remove any unnecessary restrictions on freedom of assembly, particularly on the freedom of political parties and nongovernmental organizations to demonstrate. It should, in addition, take the necessary steps to ensure that human rights defenders are protected against threats and intimidation, to give them the freedom they need to carry out their work, and to investigate, prosecute and convict perpetrators of harassment, threats and intimidation. Lastly, the State party should promulgate Act No. 2014-388 of 20 June 2014 on the promotion and protection of human rights defenders and ensure that it is effectively enforced.

Birth registration

22. While noting the action taken by the State party, the Committee is concerned about the very large number of children who remain unregistered in the State party, especially in the western part and remotest regions of the country (arts. 16 and 24).

The State party should step up measures to expedite the registration of children who remain unregistered. It should also reform and modernize its Civil Registry to ensure that births are systematically registered throughout the territory of the State party. The State party should, in addition, continue to mount public and family awareness-raising campaigns concerning birth registration.

III. Special Procedures Mandate Holders

Report of the Independent Expert on capacity building and technical cooperation with Côte d'Ivoire in the field of human rights

Addendum: Third visit to Côte d'Ivoire (22 January 2016) [A/HRC/31/78](#)

Conclusions and recommendations

87. The Independent Expert recommends that the Ivorian authorities take the following actions in order to improve prison conditions:

- (a) Act in accordance with international standards governing arrests and custody. Persons taken into custody should be held in a known, legally registered location and should enjoy all their rights (including the right to have the assistance of a lawyer and the right to be brought promptly before a judge);**
- (b) Proceed with prison reform efforts with all due diligence;**
- (c) Promptly put an end, by lawful means, to the tyranny exercised by certain prison bosses over the rest of the prison population in the Abidjan Detention and Correctional Centre;**
- (d) Relocate the Juvenile Observation Centre that is currently sited within the Abidjan Detention and Correctional Centre as quickly as possible;**
- (e) Take steps to ensure that all minors who are in custody are in all cases held separately from adult prisoners, regardless of the stage of the legal proceedings concerned;**
- (f) Take steps to ensure, under the supervision of the justice system, that the rights of the children housed in the Dabou Centre are upheld;**
- (g) Protect the children known as “talibés” from all forms of exploitation.**