

Country Visit to Côte d'Ivoire of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Preliminary Findings, 9 December 2024

The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Saul, conducted an official visit to Côte d'Ivoire from 29 November to 9 December 2024 to assess the consistency of Côte d'Ivoire's counter-terrorism laws, policies and practices with its international human rights obligations. The Special Rapporteur commends the constructive way in which the Government facilitated his visit, enabling a frank and open dialogue on multiple issues. He also thanks the United Nations country team for its assistance. The Special Rapporteur met with numerous Government entities, including the Ministry of Justice and Human Rights, the Minister of Foreign Affairs, African Integration and Ivorians Living Abroad, the Prime Minister's Office, the Ministry of Finance and Budget, the Ministry of Defence, the Ministry of the Interior and Security, the Ministry of National Cohesion, Solidarity and the Fight against Poverty, and the Ministry of Youth Promotion, Professional Integration and Civic Service. He also met with specialised entities such as the National Financial Intelligence Unit (CENTIF), Operational Counter-Terrorism Intelligence Center (CROAT) under the supervision of the National Security Council, Directorate of Civil and Criminal Affairs, Directorate of Prison Administration, General Directorate of National Police, Directorate of Criminal Police, Directorate of Territorial Surveillance, Directorate of General Intelligence, High Command of the National Gendarmerie, General Staff of the Armed Forces, National Navy, and the Public Prosecutor's Office. He also held discussions with the National Human Rights Council and the International Counter-Terrorism Academy (AICLT). The Special Rapporteur visited the Pôle pénitentiaire d'Abidjan. He appreciates the Government's transparency and the unhindered access provided. He also travelled to northern Côte d'Ivoire, visiting Korhogo, Ferkessédougou and Ouangolodougou, where he engaged with local authorities, traditional and religious leaders, communities hosting asylum seekers, refugees and asylum seekers and victims of terrorism. He visited the asylum seeker site at Nioronigué. Additionally, he met with civil society organisations and representatives of international organizations and foreign states.

Applicable International and Regional Human Rights Frameworks

Côte d'Ivoire is a party to the major international human rights instruments. The Special Rapporteur welcomes the Government's accession in the past two years to additional instruments on torture, the death penalty, enforced disappearance and migrant workers. Côte d'Ivoire has also accepted various inquiry procedures and individual complaints mechanisms. The Special Rapporteur encourages the Government to accept the individual complaints procedures in relation to enforced disappearance and the rights of persons with disabilities. He welcomes the Government's invitation to undertake an official visit and encourages the Government to issue a standing invitation to visit to all Special Procedures mandate-holders. Côte d'Ivoire was reviewed by the Universal Periodic Review Working Group in November 2024 and is currently under periodic review by the Human Rights Committee. Côte d'Ivoire is also party to the 1951 and 1967 refugee instruments and the four Geneva Conventions of 1949 and its two additional protocols of 1977. Côte d'Ivoire is a party to major regional human rights instruments, including the African Charter on Human and People's Rights and its Protocol establishing the African Court on Human and Peoples' Rights. The Special Rapporteur encourages Côte d'Ivoire to reconsider the withdrawal in 2024 of its declaration under article 34(6) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, which previously allowed non-government organizations and individuals to submit complaints to the Court.

Under Côte d'Ivoire's Constitution, ratified treaties have an authority superior to national laws (article 123). The Constitution also contains a comprehensive suite of economic, social, civil and political rights. The National Council for Human Rights is regarded as independent and effective and is accredited with "A status" under the Paris Principles. A bill to establish an autonomous national preventive torture mechanism, pursuant to the Optional Protocol to the Convention against Torture, will soon come before the parliament. In 2014, Côte d'Ivoire adopted Law 2014-388 to protect human rights defenders and established the Committee for the Protection of Human Rights Defenders. NGOs have observer status, but there is continuing advocacy to upgrade their participation to full membership to make the Committee more effective. There have also been increased efforts to combat corruption, including by an anti-corruption authority.

Terrorist threat

In 2016, Côte d'Ivoire suffered its first terrorist attack, when three armed men killed 19 people and injured 33 in the southern coastal tourist town of Grand-Bassam. Responsibility was claimed by al-Qaeda in the Islamic Maghreb (AQIM), based in neighbouring Mali. Two of the attackers were reportedly associated with the splinter

group al-Mourabitoun. In December 2022, an Ivorian court sentenced 11 defendants to life imprisonment for terrorism and other offences; only four were present in court. Nineteen accused were acquitted. In 2020 and 2021, Côte d'Ivoire experienced a series of attacks on the military and police in the north, at Kafolo, Savanes and Tehini, killing 22 soldiers and a number of others. The Government assessed the Macina Liberation Front (also known as Katiba Macina), aligned with the Mali-based Jama'at Nusrat al-Islam wal-Muslimin (JNIM), to be responsible. The trials of the accused in the two Kafolo incidents are scheduled for December 2024, with one case involving 45 accused and the other 13. Most of the accused are Burkinabé nationals, plus some Malians. At the time of visit, in total there were six people convicted of terrorism serving terms of imprisonment and 137 people in pre-trial detention at different stages of proceedings. The most common terrorism charges reportedly include association with terrorist criminals, apologie/promotion of terrorism and terrorist financing offences. No terrorist attacks have occurred from 2022 to the present, but the threat of cross-border terrorism remains, along with risks of vulnerable Ivorian nationals engaging transactionally with terrorist groups or becoming radicalized. Local arrests continue to be made, particularly for terrorist financing offences.

Counter-terrorism response

Côte d'Ivoire adopted its first counter-terrorism law in 2015. Following the Grand Bassam attack of 2016, further counter-terrorism laws were passed in 2018, 2023 and 2024, including on counter-terrorist financing. Many good practices in human rights protection are evident in the legal frameworks and institutional architecture, as discussed below. In 2019, the Government, with UN assistance, adopted a national counter-terrorism strategy which involves a holistic, multi-sectoral approach to "prevention, protection, response, and resilience". The strategy has been revised on a number of occasions and was under review at the time of the visit, with the aim of adding a prevention of violent extremism component. The Government indicates that the strategy has not been made public for security reasons and, therefore, regrets that it has not been possible to evaluate its consistency with human rights. The Special Rapporteur encourages the Government to publish as much of the strategy as possible, while only keeping confidential any specific elements deemed necessary for security reasons. He also hopes to be able to review the strategy in his final report. Publishing most of the strategy would enhance transparency and build public confidence in the Government's response, which in turn can enhance public cooperation with counter-terrorism authorities and the effectiveness of counter-terrorism efforts. The Special Rapporteur encourages the Government to ensure that counter-terrorism strategies and policies involve inclusive and participatory consultation with affected communities and diverse civil society organizations.

The Special Rapporteur notes that the Government has established a sophisticated architecture of institutions for responding to terrorism, including the National Security Council and bodies on intelligence, financial intelligence, crisis management, protection of sensitive sites and institutions, and terrorist financing. Côte d'Ivoire established a special jurisdiction in 2016 and, since 10 July 2024, an Anti-Terrorism Section of the Abidjan Court of First Instance was created to specialise in terrorism cases.

Women are under-represented in the police force (15 per cent), the army (around 10 per cent) and the gendarmerie (around three to four per cent). He encourages the Government to accelerate its efforts to increase female representation in these forces, not only to promote gender equality but to ensure that these forces are more representative of the population and enjoy greater public confidence. Additionally, efforts to ensure balanced geographical recruitment, including from the north, should be further encouraged.

Definition of terrorist act and terrorist offences

Law No. 2015-493 on the suppression of terrorism establishes the definition of terrorism, the acts criminalized as terrorist offenses and the procedure for prosecution. The law was amended by Law No. 2018-864 and Law No. 2024-360. The definition of an act of terrorism in article 3 partly reflects best practice international standards.¹ Two of the alternative specific intent elements are drawn from the Terrorist Financing Convention 1999 and Security Council resolution 1566 (2004), namely that the person must have the intention of "provoking a situation of terror or intimidating the people... or of compelling the Government, an organization or an international organization" to do or refrain from doing something. However, article 3 also provides a third alternative specific intent element which is not found in international standards, namely an intention of "promoting a political, religious or ideological cause". Where such language is found in the national laws in other states, it is a cumulative requirement additional to one of the two aforementioned alternative specific elements. In other words, there must exist an intent to intimidate people or compel a government in order to advance a political, religious or ideological cause. Such formulations limit the scope of the definition by adding an extra element of proof, whereas Côte d'Ivoire's definition significantly expands the notion of terrorism. The Special Rapporteur recommends that the definition be amended accordingly. The definition of terrorism in the Criminal Code confusingly differs from the

¹ As indicated by Security Council resolution 1566, the consensus definition in the Terrorist Financing Convention and the model definition of the Special Rapporteur.

definition in the recently adopted terrorist financing law, which is based on the Terrorist Financing Convention 1999, and it recommended to align the definitions in a common approach.

The physical conduct covered by the definition of terrorism in article 3 is overbroad and includes acts that do not involve an intention to cause death or serious injury, as recommended by best practice international standards, and are consequently not genuinely terrorist in nature. Thus, the definition includes acts such as damage to property, natural resources, the environment or cultural heritage; interruption, damage or destruction of computer systems or certain other public services or infrastructure; disrupting emergency services; undermining “public safety or national security”; creating “a situation of crisis among the populations or a general insurrection”; handling of explosives; and endangerment of animals or the environment. Some of these terms are also vague and overbroad, infringing the principle of legality under article 15 of the ICCPR that requires offences to be defined with sufficient clarity so that individuals can know the scope of their liability. Vagueness also entails a risk of criminalizing the legitimate exercise of civil and political freedoms.

The Government is also encouraged to consider enacting three exclusions from the definition of terrorism in order to narrow its scope and protect other important legal interests. Firstly, the definition should exclude acts of advocacy, protest, dissent or industrial action in a democratic society which do not intentionally cause death or serious injury, in order to safeguard the rights to freedom of expression, opinion, assembly, association and political participation. Where such acts damage property, they should be prosecuted as ordinary offences. Secondly, the definition should exclude the provision by independent and impartial humanitarian organizations of humanitarian assistance or other activities that support basic human needs. Thirdly, while the definition already excludes acts against persons directly participating in hostilities in armed conflict (based on the Terrorist Financing Convention), this exclusion should be widened to reflect the position under many recent international counter-terrorism conventions. Thus, the definition should exclude the activities of armed forces in armed conflict that are governed by international humanitarian law; or preferably where such activities are “in conformity with” humanitarian law. This would ensure that terrorism offences do not interfere with the regulation of armed conflict by humanitarian law and undermine incentives for non-state armed groups to comply with it.

A number of terrorist offences in the law appear to be overbroad. Article 5 criminalises the act of joining, associating, or partnering with any group whose purpose is to prepare or commit terrorist acts. The broad liability for “associating” with such group, with no requirement that the person be aware of the group’s purpose or intend to further the terrorist activities of the group, potentially criminalizes innocent or inadvertent associations with the group, including legitimate activities of civil society, lawyers, human rights defenders, and journalists. It is recommended to narrow the scope of this offence.

Article 6 criminalizes anyone who, through gestures, comments, shouts, or threats, through any medium, in a public place or place open to the public, provokes a terrorist attack or incites its commission. The incitement element of the offence does not appear to require that the message cause a danger that a terrorist act would be committed as a result of the incitement, and thus constitutes an excessive infringement on the right to freedom of expression under article 19 of the ICCPR and entails a risk of abuse and suppression of legitimate public commentary on controversial political issues. Laws addressing terrorist-related expression must: be precisely prescribed by law and avoid vague terms; be based on a precise underlying definition of terrorism; be strictly necessary and proportionate; and include both an intent to incite terrorism and an objective risk that it will be committed (A/HRC/16/51, para. 31).

Arrest and custody

The arrest and custody of terrorism suspects is governed by a robust legal framework with extensive formal protections for relevant human rights. The police and gendarmerie are generally professional and well-trained and work under the direction of the prosecutor, the judiciary, and internal disciplinary mechanisms (such as general inspectorates of the police and the gendarmerie), as well as some external monitoring by the National Human Rights Council. The Government has embraced legal and institutional reform, including enhancing the quality of interrogations (also where the Territorial Surveillance Directorate is involved in terrorism cases), intelligence and forensic capabilities (including through the Operational Counter-Terrorism Intelligence Center (CROAT)); and has sought the expertise of bilateral and international partners.

Similar to law enforcement in other country, there remain areas for improvement. In some cases, no substantive reasons were reportedly given for the arrest, despite legal guarantees under national law and Article 9(2) of the ICCPR. Many suspects were also reportedly unaware of their right to challenge the lawfulness of their detention before a court. During his visit, the Special Rapporteur received a number of complaints of arrests being made without any apparent reasonable suspicion of involvement in terrorist activity, which may indicate arbitrary deprivations of liberty contrary to article 9(1) of the ICCPR. There have also been concerns that sufficient investigations have not always been conducted prior to making arrests.

There are also indications that some arrests may have been made in part on the basis of the over-policing of members of the *peul* (Fulani) herder community, who represent the majority of terrorist suspects. Such instances have reportedly fuelled grievances and feelings of victimization, resulting in distrust of authorities, impediments to community cooperation with the authorities, and risks of radicalization in response to perceived bias. The Special Rapporteur acknowledges the strong awareness among senior central and local government and security officials regarding the importance of avoiding stigmatization. He encourages the Government to build on this awareness by continuing to strengthen the training of personnel, and ensure appropriate orders and supervision in the field, to guarantee that arrests are only made when there are reasonable grounds of suspicion of an offence according to law.

Under criminal procedure, the period of judicial police custody is limited to 96 hours (four days) unless an extension is authorized by the prosecutor for another 96 hours, amounting to a maximum total limit of eight days.² Some reports were received of custody extending beyond this period. The Government indicated that transfers from the north of the country to Abidjan are done by aircraft where available, and thus, within one or two days, but otherwise by vehicle, a journey of around 600 km can take much longer. The concentration of expert terrorism investigations in Abidjan can place stress on the custodial period, as well as removing suspects from their families and communities, and distancing them from local justice for victims. When terrorism-related crimes are committed or believed to be committed in the northern regions of the country, consideration should be given to terrorism investigations and trials in Korhogo, in the north.

Under article 9(3) of the ICCPR, an arrested person must be brought promptly before a judge, normally within 48 hours (General Comment No. 35, para. 33). The Special Rapporteur recommends that the Government consider shortening the time limits on custody, from 96 hours to 48 hours (as for ordinary crimes), with the possibility of renewal for another 48 hours (not a further 96 hours). The current period of eight days without independent judicial control of detention, where there is no state of emergency or armed conflict, sacrifices too much of the right to liberty.

A further concern is that national law authorizes the prosecutor to extend detention, up to a total period of 8 days, instead of requiring an independent judge to do so. Under article 9(3) of the ICCPR, an arrested person must be brought promptly before a judge (General Comment No. 35, para. 33). The judicial authority must be independent, objective and impartial (General Comment No. 35, para. 32), which is not satisfied where the prosecutor in charge of investigating the suspect is also authorizing the extension of detention.

After transfer to Abidjan, a terrorism suspect is held in a judicial police station determined by the prosecutor. The Government denied historical reports that there are any places of secret detention, such as Territorial Surveillance Directorate facilities. Stakeholders expressed concern that the National Human Rights Council and civil society organizations do not have any information about arrests, custody and pre-trial detention in terrorism cases and are unable to visit suspects, detect abuses, or track cases. It is recommended that the National Human Rights Council is notified as soon as possible of the place of custody of any terrorist suspect transferred to Abidjan, and that its regional commissions are notified of custody elsewhere in the country where arrests are made, or an accused is held during transit.

By law, the police must inform suspects of their right to a lawyer upon arrest. Where lawyers are unavailable, the suspect may request the presence of a family member or friend. There is also a right to notify a family member or friend of the arrest. When the case proceeds to the criminal court, lawyers are assigned to the accused free of charge, while a person is still entitled to choose a paid lawyer. According to reports, some terrorism suspects were not informed of their right to a lawyer upon arrest and in interrogation. In practice, many suspects are unable to afford a lawyer at this stage and legal aid is not available until a later stage. Lawyers are often unavailable in northern rural areas. Reports were also received of failure to notify family members or friends, the absence of interpreters, and limited access to medical examination.

The Special Rapporteur received reports of individuals being beaten or mistreated in police custody, particularly around the time of arrest. In one case in 2023, an artisanal goldminer was reportedly tortured to death after police believed his explosives may have been for terrorist purposes. Such cases do not appear to be common. A lack of independent and impartial investigations was reported in some cases. The Committee against Torture has expressed concern that article 438 of the Criminal Procedure Code, which confers discretion on judges to admit confession evidence, may permit the admission of forced confessions or other evidence obtained by torture.

Pre-trial detention and fair trial

Terrorism cases are dealt with by the Anti-Terrorism Section of the Abidjan Court of First Instance. For terrorism cases, the time limit of pre-trial detention is eight months, renewable once, and renewable by exception a third

² Law No. 2015-493 on the Suppression of Terrorism, article 17.

and final time, to a maximum period of 24 months (two years).³ Some terrorism suspects have been held for protracted periods in pre-trial detention in excess of these limits, previously including the accused in the Grand-Bassam case. Under article 14(3)(c) of the ICCPR, criminal suspects must be tried without undue delay, to avoid leaving them in a state of uncertainty, ensure detention lasts only as long as necessary, and to serve the interests of justice (General Comment No. 32, para. 35). Those on remand must be tried “as expeditiously as possible” and whether delay is unreasonable is in part determined by the conduct of the administrative and judicial authorities (ibid). The Special Rapporteur acknowledges the Government’s legitimate concern that terrorism investigations can be particularly complex. He nonetheless echoes the concern of the Committee against Torture that “excessive use of prolonged pretrial detention without regular review of its lawfulness contributes directly to chronic overcrowding in places of detention, is liable to violate the right to liberty and security of person and is fundamentally incompatible with the principle of presumption of innocence”.⁴ Protracted pre-trial detention could become a grievance that fuels radicalization in prison.

It is recommended that sufficient resources be devoted to prioritize the finalization of protracted terrorism cases as a matter of urgency, particularly for persons detained the longest. It is further suggested to continue to enhance training of law enforcement authorities in relation to law and policy concerning arrests, custody, transfers, investigations (including special investigative techniques, intelligence gathering, evidence collection and preservation, forensics, and personal data protection and the right to privacy), and the prohibition on torture, ill-treatment and forced confessions. Improving judicial efficiency, resources, and expertise in counter-terrorism law should also continue to be addressed.

The Special Rapporteur notes that in some cases, the fairness of the pre-trial procedure is affected by a lack of legal representation or legal aid, which undermines the right to liberty under article 9 of the ICCPR and fair trial under article 14 of the ICCPR. National law requires the authorities to assign a lawyer at no charge when the judicial investigation commences. In practice, however, it is reported that legal aid rates are unattractively low for lawyers, there are delays in reimbursing lawyers, there is a shortage of lawyers, and there are generally insufficient funds for legal aid. Some detainees reportedly had limited understanding of the judicial process and faced linguistic barriers.

Prison conditions

At the time of the Special Rapporteur’s visit, the prison system held six people convicted of terrorism offences and sentenced to life imprisonment, four in relation to the Grand-Bassam terrorist attack in 2016, and 137 people in pre-trial detention (of whom two were women). All of these are held in the Pôle pénitentiaire d’Abidjan, the largest prison in Côte d’Ivoire. The facility was originally built in 1981 to house 1,500 prisoners but the authorities indicated that subsequent construction increased capacity to 5,000 people. At the time of visit, the facility held 11,073 people. Internal security fencing was recently erected to physically separate the different buildings in the prison in order to segregate different categories of detainees. The Maison Pénale d’Abidjan (formerly Building C) holds convicted prisoners and pre-trial detainees in both cases where the penalty for the crime is five years imprisonment or more, and thus holds the terrorism inmates. The authorities indicated that the convicted persons are held in separate cells from the pre-trial detainees within this building. In total, the building held 2,874 people at the time of visit, in 43 cells across two floors. The number of people per cell depends on the physical size of the different rooms, but ten cells (each comprising one large room) held over 170 people, while many other cells also held large numbers.

Convicted terrorists and terrorist suspects are not locked in their cells during the daytime but are free to circulate in the limited outdoor common areas of the Maison Pénale, as well as to visit, with permission, the mosque and church common to all of the detention facilities in the Pôle pénitentiaire. There is, accordingly, substantial separation of convicted prisoners from suspects. The authorities indicated that a new high-security facility in Korhogo, in the north, is nearly completed. The facility is expected to accommodate between 300 and 500 inmates, including those convicted for terrorism-related offenses.

the suspects involved in the Grant-Bassam attack were reportedly held in isolation for their first three years in detention, but these restrictions have since been lifted. He further notes that a 2023 decree limits solitary confinement to 15 consecutive days⁵ and urges the Government to ensure its strict implementation.

The prison authorities professed their commitment to international standards of detention, including the Mandela Rules, and to “modernizing and humanizing” prisons, including through reforms to make prison administration more responsive, improve training of prison staff, and reduce overcrowding and improve prison conditions. The prison authorities reported a reduction in violence between inmates. The authorities reported adequate, albeit

³ Criminal Procedure Code, article 167.

⁴ CAT/C/CIV/CO/1, para. 29.

⁵ Decree No. 2023-239.

undisclosed, levels of staffing, although additional staff were said to be welcome. He also noted that the prison also relies on selected prisoners to help manage the prison population, with some allegations of abuses of power. Bribery was alleged to be common. A report was received that one terrorism detainee was previously beaten by other detainees without action by prison guards.

The principal concerns about prison conditions are chronic overcrowding, poor sanitation, insufficient access to water, inadequate bedding, insufficient food quality and quantity, and insufficient medical services, including regarding staffing, medicines and transfers to external health services. United Nations mechanisms have previously raised such concerns. The prison holds more than double its planned capacity. Numerous cells held over 170 prisoners, without beds or furniture, requiring inmates to sleep on the floor in an extremely congested manner. The sanitation facilities are entirely inadequate, with few toilets and bathrooms/showers for such a large number of inmates. The interior of the building appeared to be very dirty and odorous. There was very little natural light, and dim electric lighting. There was little natural ventilation, and no electric fans, despite the very hot and humid temperatures. There was a lack of mosquito nets to prevent malaria. The overcrowding has acute adverse effects on the physical and mental health and well-being of detainees.

The Government indicated during the visit of the Special Rapporteur that it is conscious of the problem of overcrowding, including inadequate prison infrastructure dating from the colonial period and the demographic growth that has outstripped capacity. It is taking genuine steps in response, including strengthening the applicable legal frameworks⁶ and finalizing a plan to improve conditions. The Government has also built new prison infrastructure and redeveloped existing infrastructure, and has acquired a 642 hectare agricultural site at in the centre of the country which will be developed to provide work opportunities for detainees prior to release, with an emphasis on rehabilitation and reintegration. The justice system also utilizes alternatives to detention (including judicial control and provisional freedom), suspended sentences, community service, presidential amnesties, and releases from detention where it is unjustified. The Special Rapporteur encourages such alternatives to be applied whenever possible.

Nonetheless, the situation remains seriously non-compliant with international standards and may amount to cruel, inhuman or degrading treatment or punishment. There was a perception among some stakeholders that, despite recent efforts, improvement of prison conditions was not sufficiently prioritized. The Maison Pénale d'Abidjan is not fit for habitation with the current number of inmates, and the building itself cannot meet contemporary international standards even if renovated. The Government is encouraged to urgently devote sufficient resources to new prison infrastructure.

Activities of armed forces

Côte d'Ivoire deployed the army to prevent incursions into its northern borders with Burkina Faso and Mali in 2021. The force is headquartered in Korhogo and its strength is five battalions comprising 2,500 to 3,000 personnel. No state of armed conflict governed by international humanitarian law exists and no state of emergency is in force. Decree No. 2020/167 governs the deployment to the zones of operation and operational orders from commanders regulate the conduct of personnel in the field. The use of force is limited to self-defence as under an ordinary peacetime law enforcement approach. Military special forces provide a rapid reaction capability. The army provides a supporting role to the gendarmerie (also part of the armed forces) and the police, including by sometimes conducting joint operations. An additional 600 gendarmerie have been deployed in the north to supplement the ordinary complement of gendarmerie, and new gendarmerie and police posts have been established. The gendarmerie also maintains standby response units to react to threats. The armed forces have modernized their equipment and surveillance capabilities. Côte d'Ivoire has also established civil/military cells to encourage the population to share information about terrorist threats, perform an "early warning" function, and be "producers not only consumers of security". The cells were first established after the armed conflict in 2011, as part of security sector reforms, to rebuild trust in the military, and have been reinvigorated to address the terrorist threat.

Where the military apprehends a terrorist suspect, in principle they are immediately transferred into the custody of the nearest gendarmerie or police post and from there to Korhogo, pending transfer to Abidjan. There is, however, no legal time limit on the period of military custody pending transfer, and this period does not appear to count towards the 96-hour time limit on custody which commences upon transfer to judicial control by the police or gendarmerie. While in practice transfers are said to be immediate, the possibility cannot be ruled out of longer periods in military custody where a person is apprehended in a remote area, or rain or floods prevent or other obstacles (such as a vehicle breaking down) prevent immediate transfer. It is recommended that the law state a

⁶ Law No. 2019-574 of 26 June 2019 on the Penal Code, Law No. 2018-975 of 27 December 2018 on the Code of Criminal Procedure and Decree No. 2023-239 of 5 April 2023 on the regulation of penitentiary establishments.

maximum period of military custody, and require that the period of military custody in each case is deducted from the 96 hour period of judicial custody that starts upon transfer.

The armed forces emphasize the importance of training in humanitarian law, human rights law, and the application national legal frameworks. Such training is incorporated into officer training, in pre-deployment of personnel to the north, and in refresher courses. Training is provided by Ivorian instructors as well as by UN- partners, NGOs and other stakeholders. The National Human Rights Council recently developed with the Army a human rights-based “code of conduct” pocket card, as well as a human rights manual, and is engaged in disseminating these documents through training of military trainers. It has also developed training documents for the gendarmerie and prison authorities. The gendarmerie is currently drafting a code of ethics. The Special Rapporteur commends the Government’s commitment to continuing training of forces in international obligations.

The army is subject to a well-developed accountability system, including administrative/disciplinary sanctions (under both the Chief of General Staff and a disciplinary council), a second-level military tribunal, and ultimately penal sanctions and civil proceedings. The National Human Rights Council maintains a regular dialogue with the military, including on allegations of abuses. Some stakeholders believed that there is more potential for abuses in the army and gendarmerie because they are deployed in rural and remote areas, unlike the urban police, and are thus prone to less scrutiny.

A flagship initiative of Côte d’Ivoire, in partnership with France, is the establishment of the AILCT since 2017 near Abidjan, supported by many bilateral and international partners, including UNODC, the European Union and the AU Counter-Terrorism Centre. The AILCT aims to create a common counterterrorism community and culture among African forces and their international partners, across the spectrum from prevention (including socio-economic vulnerabilities and development) to crisis management and intervention, to judicial responses. Its work focuses on three pillars: Ivorian interministerial collaboration through an executive training school; building operational capacity by training special forces and intervention units; and strategic analysis and research school. It has already trained 1,415 participants from 29 African countries, including police, gendarmerie and other military forces, often in groups of mixed nationalities to enhance interoperability. The Special Rapporteur commends the AILCT for including in its training international humanitarian law, human rights, the protection of civilians, the treatment of detainees, and contributing to a common culture of respect for international law across many African security forces. It is recommended to consider pursuing more specialized training in humanitarian law and human rights when resources allow, including by convening military legal advisers from African countries, and considering training in relation to African-led peace operations where these have a counter-terrorist element. The Special Rapporteur encourage international partners to support the AILCT.

Border security, asylum seekers and refugees

The predominantly cross-border origin of the terrorist threat to Côte d’Ivoire, and the historic porosity of borders drawn in colonial times, has led the Government to strengthen border security and the management of cross-border movement. At the same time, the Government respects the freedom of movement of persons and goods in the ECOWAS sub-region and is to be commended for its hospitable policy towards refugees from neighbouring countries affected by terrorism. At the time of visit, the Government reported 68,130 asylum seekers, of whom 63,117 had been registered. The principal country of origin was Burkina Faso. As of 30 September 2024, the UNHCR reported 2,359 recognized refugees and 930,958 persons at risk of statelessness. The Directorate of Aid and Assistance to Refugees and Stateless Persons (coordinates the asylum response in concert with the National Security Council, the prefectures and international and local partners.

Côte d’Ivoire is a party to the 1951 Refugee Convention and its 1967 Protocol, the 1954 Statelessness Convention, and the African Union refugee instrument of 1969. It has domesticated its obligations through Act No. 2023-590 of 7 June 2023 on refugee status, article 16 of which guarantees non-refoulement to persecution. The law does not, however, prohibit the expulsion or return of a person to another State where there are substantial grounds for believing that that person would be in danger of being subjected to torture, as required under article 3 of the Convention against Torture, or cruel, inhuman or degrading treatment or punishment, as required by article 7 of the ICCPR. The Special Rapporteur encourages the Government to also prohibit by law refoulement to other serious rights violations, including arbitrary deprivation of life, arbitrary detention and flagrant denial of justice.

In July 2024, about 164 Burkinabé nationals who had not declared their presence to the authorities were refouled to Burkina Faso three days after arriving in the country, reportedly because they had not registered upon arrival. The Government later clarified that this was an isolated incident and no further such cases have been reported since. The Government indicates that it has a policy of not penalizing asylum seekers for irregular entry, but the 2023 refugee law still requires them to enter at official border posts. Those who claim asylum are biometrically registered and referred to the central authorities for determination of their claims. Very few asylum seekers have been recognized as refugees to date, and the Government is encouraged to expedite the processing of claims.

Article 27 of the 2023 refugee law provides that “refugees may be expelled from the national territory for reasons of national security or public order”. This provision does not appear to be consistent with the narrower and more specific scope of the exception to non-refoulement under article 33(2) of the Refugee Convention and the expulsion (to a safe country) provision under article 32. The law also applies the Article 1F exclusion clauses under the Refugee Convention and the authorities are encouraged to interpret it in accordance with international law. There are no known instances of asylum seekers being identified as suspected terrorists.

The authorities have registered 744 individuals with special needs (e.g. persons with disabilities, pregnant women, children, the elderly) and report that they have not encountered victims of sexual or gender-based violence. The Special Rapporteur received indications there are victims of sexual violence from Burkina Faso, but the issue does not appear to be well recognized. The Government is encouraged to ensure that all forms of vulnerability are identified and assisted, including victims of torture and conflict-related trauma.

Asylum seekers largely receive the same rights as recognized refugees, including freedom of movement, health care, education and work rights. However, reports were received that police often do not recognize asylum-seekers identity documents as valid to pass checkpoints, insisting on an Ivorian national identity card, resulting in racketeering. Since the “registration attestation” is issued to asylee families, not individual members, difficulties have also been encountered when more than one family member needs a document to travel at the same time.

Around three-quarters of asylum seekers live among amongst Ivorian host communities in the north. Host communities have generously assisted asylum seekers, supported by state authorities, international organizations and NGOs. Relations between host communities and asylum seekers are generally harmonious and no security concerns were reported. Many asylum seekers nonetheless face serious difficulties accessing sufficient water, adequate food, affordable rental housing, schooling, and livelihood or employment opportunities, and access to land. Many receive limited humanitarian assistance. The most vulnerable receive cash transfers, but amounts were reportedly inadequate. Basic health care and medicines are often unaffordable for asylum seekers, although certain services are free. While tuition is free, ancillary costs (e.g. uniforms, books, stationery and voluntary contributions) render school unaffordable for many.

Local communities reported being under significant stress from hosting asylum seekers, exacerbated by increasing population density, poverty, limited resources, in particular water and cultivable lands, and scarcity of public services, including water, schools and healthcare. The influx of asylum-seeker children has led to overcrowded schools, with class sizes reaching up to 90 pupils. The most vulnerable receive targeted assistance through the “social safety nets” program. The Special Rapporteur urges the Government and its partners to scale up efforts to support vulnerable host communities. Some stakeholders expressed concern that unaddressed stresses on host communities could degrade social cohesion over time.

Around 15,000 asylum seekers are hosted in two sites on state land established in 2023 by the Government, near Ouangolodougou and Bouna. The planned capacity of the sites has been exceeded. The Special Rapporteur visited the site at Nioronigué near Ouangolodougou, which hosts 6,276 people in 1,080 houses. Residence is voluntary. Asylum seekers live in free brick houses of one or two rooms depending on family size. The site provides drinking water points at bore holes; sanitation (52 latrines in total, or 120 people per latrine); bedding; solar charging for lamps; free primary health services and medicines; food and non-food items upon arrival; and monthly cash transfers (reduced by half this year). Food is not provided on an ongoing basis, and asylum seekers reported that 5,000 francs per month per person was seriously inadequate to sustain nutrition. The site suffers severe water shortages, with four boreholes designed for 2,000 people currently servicing over 6,000 people. There are a few income-generating opportunities, such as small shops, and there has been occasional vocational training. However, very few asylum seekers have outside employment. No land is available for growing food or cash crops, and livestock (even chickens) are prohibited. Stakeholders indicated a need to transition from a humanitarian response to self-sufficiency through providing more livelihood opportunities.

There are no formal schools at the sites. Nioronigué has a “friends of children space” which provides learning opportunities and games for children on a rotating basis, supervised by six paid asylum seeker teachers. There are around 3,460 children at that site (58% of the site population), and each child can attend the space for only one full day per week. In theory, the teacher/student ratio is one teacher to 606 students, but not all children attend. The space is not able to feed the children. Some hundreds of children previously attended nearby village schools to undertake a preparatory course and eligibility test for entry into the state school system, but the program is currently suspended until the Government decides how to address the provision of education to asylum seekers. The Special Rapporteur encourages the Government to formalize education for asylee children as a priority.

Victims of terrorism

Côte d’Ivoire does not have laws addressing victims of terrorism specifically. There is a 2018 law to protect witnesses and victims of crime generally, but protection mechanisms are insufficient. There is also a solidarity

fund for victims of crime in general. There is special provision for social assistance to the families of state forces killed or injured on duty. The national counter-terrorism strategy also reportedly addresses victims to some extent, and its proposed revision may contain further measures, but these are not yet public. The National Human Rights Council has previously recommended creating a legal status for victims of terrorism and establishing a dedicated compensation fund. It is recommended that Côte d'Ivoire consider adopting specific laws and institutional frameworks to comprehensively assist and protect victims of terrorism, to recognize their distinctive needs and vulnerabilities. Legislative "best practice" is provided by the United Nations Model Legislative Provisions to Support the Needs and Protect the Rights of Victims of Terrorism.

Addressing the conditions conducive to terrorism

The Government has a sophisticated understanding of the need to complement security responses to the cross-border terrorist threat with holistic measures to address the conditions conducive to terrorism and prevent transactional support for terrorist groups, recruitment and radicalization. The Government is aware of potential risk factors in the northern border areas including poverty, a feeling of historical abandonment by the state, a lack of essential services (such as security, health care, schools, roads, transport, water, sanitation, and social protection), youth unemployment and a lack of livelihood opportunities. Côte d'Ivoire is ranked 159th of 191 countries in the Human Development Index (2021).

The Government has responded by expanding the presence of the state to "bring it closer to the community", including by deploying more police and security forces and better equipping and training them, strengthening local authorities, and accelerating socio-economic development. A community policing approach, and a "pedagogical compact" putting citizens at the centre of security, has sought to build trust with local communities, sensitize them about the risks of terrorism, and enhance information sharing about suspicious activities. Multi-agency security committees meet regularly at the local departmental level, in addition to civil/military cooperation cells. Some surveys show that communities in border areas have come to feel more secure. Stakeholders indicated that violations by police and security forces are not institutionalized or systematic, but that individual cases of racketeering at checkpoints (e.g. where people lack personal identity or vehicle registration documents) or border crossings still occur, and intimidation by show of weapons. Such incidents are a source of tension with the population which undermines trust in and cooperation with law enforcement.

In relation to economic and social development to address vulnerabilities that, in principle, could be conducive to terrorism, the Government has sought to make local governance more responsive and responsible to the communities in border areas. In particular, the Government and its partners have focused on expanding infrastructure, the availability and quality of public services, and livelihood opportunities. Significant improvements have been made since 2016 in the provision of health care (including Universal Health Coverage), schools, social assistance and cash transfers, water facilities, electricity and roads. There has also been an expansion of vocational training and livelihood and employment initiatives, particularly targeting vulnerable groups such as youth and women. Many areas in the north nevertheless continue lack accessible, affordable and adequate basic services. The Government is conscious of its obligation under article 2 of the ICESCR to progressively realize economic, social and cultural rights to the maximum of its available resources. This requires that it fulfil its minimum core obligation to satisfy the minimum essential content of each right, including essential food, primary health care, basic housing, and primary education (CESCR, General Comment No. 3, para. 10), and to seek international assistance where necessary. The Special Rapporteur also encourages the Government to expand inclusive and participatory engagement with local communities and civil society stakeholders in development activities.

One phenomenon contributing to grievances and the potential for violence is tensions over land, pasture and water between cattle herders and farmers, although there is no direct connection to terrorism thus far. The Special Rapporteur supports the Government's efforts to raise awareness of land laws, including transhumance corridors⁷ and dispute settlement procedures and to simplify procedures for certifying land titles. The Government is also encouraged to continue to sensitize not only state officials but also the community in non-discrimination against the peul (Fulani) herders. The Special Rapporteur also encountered some concerns about the vulnerability and rights of children in Koranic schools and Franco-Arabic schools, who traditionally often only received religious instruction, and where some talibé children were exploited for begging. The Special Rapporteur welcomes the Government's efforts since 2016 to require these schools to teach the national curriculum and encourages further implementation in border areas.

⁷ Law No. 2016-413 of 15 June 2016 on transhumance and livestock movements.