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OPERATIONAL GUIDANCE NOTE

IVORY COAST

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1. Introduction

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

Source documents

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

2. Country assessment

- 2.1** Ivory Coast gained independence from France in 1960, with Felix Houphouët-Boigny as President and chairman of the single ruling party, the Parti Démocratique de la Côte d'Ivoire (PDCI) which dominated Ivorian politics until the early 1990s. A new electoral code in 1994, required presidential candidates to have two Ivorian parents and to have resided in

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

- 2.2** Legislative elections in December 2000 (from which Ouattara was again banned, leading to an RDR boycott) and municipal elections in March 2001 went relatively smoothly, but the strong support for the PDCI and the RDR, prompted President Gbagbo of the Front populaire ivoirien (FPI), elected in the elections of December 2000, to hold a National Reconciliation Forum in October 2001. Gbagbo, Bédié, Ouattara and Guei all attended to agree a series of recommendations including acceptance of the October 2000 election results. All the main parties participated in the first-ever district and regional elections in July 2002. However, the elections were marred by inter-ethnic violence between RDR and FPI supporters and by claims of administrative malpractice and contested electoral lists.²
- 2.3** On 19 September 2002, an attempted coup took place in Abidjan and in the north of the country. The uprising in Abidjan was quickly suppressed, although Guei, and Interior Minister Boga Doudou, were killed in the ensuing violence. The rebels had more success in the north, seizing control of the major cities of Bouake and Korhogo. The rebels, who subsequently identified themselves as the Mouvement Patriotique de Côte d'Ivoire (MPCI), included factions of the military unhappy at government proposals to retire them, but also drew wider support from those who opposed the existing political regime.³
- 2.4** The Economic Community of West African states (ECOWAS) responded swiftly to the crisis, negotiating a ceasefire between the two sides on 17 October 2002. However, the situation became more complex following the emergence in November 2002 of two new rebel groups in the west, the Mouvement Patriotique Ivoirien du Grand Ouest (MPIGO) and the Movement for Peace and Justice (MJP). There was a fresh round of fighting in the west, and also a number of ceasefire breaches in the north. All Ivorian political parties and the three rebel groups attended Round-Table discussions in Paris in January 2003, which led to the Linas Marcoussis Agreement (LMA). This provided for a new Government of National Reconciliation and addressed the key issues underlying the current crisis.⁴
- 2.5** On 29 May 2003, the new government presented its programme, closely based on the requirements of the LMA, to the National Assembly. Following the declaration of a comprehensive ceasefire, the ceasefire line was successfully extended to the Liberian border in late May, and the situation in the west stabilised significantly. The Forces Armées Nationales de Côte d'Ivoire (FANCI) and the Forces Nouvelles (FN) issued a joint declaration on 4 July 2003 declaring a permanent cessation of hostilities.⁵
- 2.6** Despite this progress, levels of confidence between both sides continued to fluctuate. Although the FN re-joined the Government in January 2004, any sense of optimism was short-lived. In March 2004, the PDCI suspended their participation in Cabinet meetings, accusing Gbagbo of stalling on the reconciliation process. Pro-Marcoussis parties including the PDCI and the RDR announced a march in support of the LMA, despite a ban on all demonstrations. When the resulting 25 March demonstration was forcibly repressed by the

¹ Foreign and Commonwealth Office (FCO) Country Profile 2006: Ivory Coast, British Broadcasting Corporation (BBC) News. Country Profile: Ivory Coast & BBC News. Timeline: Ivory Coast

² FCO Country Profile: Ivory Coast, BBC News. Country Profile: Ivory Coast & BBC News. Timeline: Ivory Coast

³ FCO Country Profile: Ivory Coast, U.S. Department of State report on Human Rights Practices (USSD) – 2005 (Introduction), BBC News. Country Profile: Ivory Coast & BBC News. Timeline: Ivory Coast

⁴ FCO Country Profile: Ivory Coast, USSD 2005 (Introduction), BBC News. Country Profile: Ivory Coast & BBC News. Timeline: Ivory Coast

⁵ FCO Country Profile: Ivory Coast, USSD 2005 (Introduction), BBC News. Country Profile: Ivory Coast & BBC News. Timeline: Ivory Coast

authorities, leaving more than a hundred dead, six other parties, including the RDR and the Forces Nouvelles (the G7) joined the PDCI boycott.⁶

- 2.7** A United Nations Peacekeeping Force (UNOCI) of 6,000 troops began to deploy in April 2004. The G7 returned to government in August 2004, following the signature of the Accra III accord which called for the President to facilitate the passing of all LMA-related legislation by 30 September 2004 and for the Demobilisation, Disarmament and Re-integration (DDR) process to start by 15 October 2004 at the latest. However, the Government has made little progress on implementing political reforms and Bills on Nationality and the composition of the Independent Electoral Commission have been blocked.⁷
- 2.8** Ivorian government fighter planes dropped bombs over the rebel stronghold of Bouake on 4 November 2004. Following an air strike on 6 November 2004 by Ivorian government forces on a French military base near Bouake in which nine French peacekeepers were killed, the French destroyed the Ivorian government's aircraft. Retaliation by Ivorian government forces and pro-government militias followed swiftly. Between 6 and 8 November 2004, French peacekeepers clashed with Government troops and pro-government militias near the airport in Abidjan, at the French military base and in various locations throughout the city. Militia groups also attacked foreign businesses and residences. British, French and other governments assisted around 8,000 foreign nationals to leave.⁸
- 2.9** In December 2004, President Mbeki of South Africa was mandated by the African Union to revitalise the peace process. The Pretoria agreement was signed on 6 April 2005 and a further agreement was signed, also in Pretoria, in June 2005. While reiterating many of the key elements of LMA, the Pretoria agreements set a more specific timetable for the crucial issue of disarmament (of the Forces Nouvelles, some elements of the national army and of the militia). It has been agreed that disarmament would begin in August 2005. Earlier in April 2005, Gbagbo announced that he would use his constitutional powers to allow all nominees of parties signatory to the Linas Marcoussis to run in the elections, thereby apparently clearing the way for Ouattara to stand. However, disputes remain over the mechanisms for organising the elections. Outbreaks of violence in Abidjan in the second half of 2005 further highlighted the fragility of the peace process.⁹
- 2.10** Presidential elections scheduled for October 2005 were postponed due to a lack of preparation. The African Union and the United Nations (UN) set out a new roadmap for peace and recommended elections be held no later than 31 October 2006. In December 2005, economist Charles Konan Banny was nominated as Prime Minister by peace mediators with the mandate of disarming militias and rebels and organising elections. Supporters of President Gbagbo took to the streets in Abidjan in January 2006 to protest against what they saw as UN interference in internal affairs.¹⁰ At the end of February 2006, President Gbagbo and major opposition party and rebel leaders held a landmark summit to further discuss the political turmoil and salvage the transitional government.¹¹
- 2.11** Rebel leader Guillaume Soro took up his seat in the Government in March 2006 and in July 2006, militias who support President Gbagbo begun to lay down their arms in accordance with the DDR programme. However, several disarmament deadlines have been missed. There have also been disputes over the United Nations-backed scheme to issue

⁶ FCO Country Profile: Ivory Coast, USSD 2005 (Introduction), BBC News. Country Profile: Ivory Coast & BBC News. Timeline: Ivory Coast

⁷ FCO Country Profile: Ivory Coast, USSD 2005 (Introduction), BBC News. Country Profile: Ivory Coast & BBC News. Timeline: Ivory Coast

⁸ FCO Country Profile: Ivory Coast, BBC News. Country Profile: Ivory Coast & BBC News. Timeline: Ivory Coast

⁹ FCO Country Profile: Ivory Coast, USSD 2005, BBC News. Country Profile: Ivory Coast, BBC News. Timeline: Ivory Coast & Human Rights Watch (HRW) World Report 2006

¹⁰ BBC News. Timeline: Ivory Coast

¹¹ BBC News 'Ivory Coast holds historic summit' dated 28 February 2006

identification cards to over 3 million unregistered people to enable them to vote. The identification programme has led to violent clashes involving President Gbagbo's hard-line supporters, the Young Patriots who believe that rebels will use the plans to register thousands of immigrants in a bid to favour the opposition. In the light of the slow progress in the peace process and delays in preparations for the poll, the presidential elections scheduled for October 2006 have been delayed indefinitely. However in October 2006, the African Union recommended that the current transition be extended for twelve more months with President Laurent Gbagbo remaining in office, but transferring control of the security forces to Prime Minister Charles Konan Banny.¹²

- 2.12** The Government's human rights record remained poor in 2005. The continuing political instability and uncertainty leading up to the end of President Gbagbo's mandate increased tensions throughout the country. The following human rights problems were reported in 2005: restriction of citizens' right to change their government; arbitrary and unlawful killings by security forces, pro-government militias, and student groups; disappearances; torture and other cruel, inhuman, or degrading treatment and punishment by security forces and pro-government militias and a student group; deplorable prison and detention centre conditions; security force impunity; arbitrary arrest and detention; denial of fair public trial; arbitrary interference with privacy, family, home, and correspondence; police harassment and abuse of non-citizen Africans; use of excessive force and other abuses in internal conflicts; restrictions on freedoms of speech, press, peaceful assembly, association, and movement; corruption; discrimination and violence against women; female genital mutilation (FGM); child abuse and exploitation; trafficking in persons; forced labour, including by children; child labour, including hazardous labour.¹³
- 2.13** The FN's human rights record was extremely poor in 2005. Rebels in the north summarily executed persons, killed civilians, arbitrarily arrested and detained persons, and conducted arbitrary ad hoc justice. However, unlike in the previous year, the FN allowed citizens access to news aired in the south and improved freedom of movement. There were fewer reports of the enrolment of child soldiers, and many were released. Unlike in the previous year, no mass graves were found in rebel-held territory.¹⁴
- 2.14** During 2005, the political impasse between the Ivorian Government and northern-based Forces Nouvelles rebels resulted in a steady increase in human rights abuses by Ivorian security forces, the rebels, and militias associated with both sides. Throughout 2005 there were persistent reports of extra-judicial executions, torture, arbitrary detentions, extortion and looting, and of recruitment and use of child soldiers by all sides. Two deadly outbreaks of ethnically motivated violence resulted in some one hundred deaths. 2005 saw no meaningful efforts by the Ivorian Government, rebels or the international community to combat the pervasive culture of impunity in the country.¹⁵
- 2.15** At the end of 2005, the apparent disenfranchisement of the rebels from the political process—as well as internal divisions along ethnic lines within the Ivorian security forces—led to serious concerns about either a renewal of armed conflict or a coup d'état. The prospect of a renewed military offensive by either side raises serious human rights concerns given the Government's prominent use of ill-disciplined militias and hate media to incite violence against perceived opponents. The extent to which the rebel leadership

¹² BBC News 'Ivorian rebel takes cabinet seat' dated 16 March 2006, BBC News 'Slow start to Ivorian poll plan' dated 18 May 2006, BBC News 'Ivorian militias begin to disband' dated 27 July 2006, BBC News 'Summit on Ivory Coast crisis ends' dated 7 October 2006, IRINNEWS.ORG 'COTE D'IVOIRE: Decision on peace sealing elections in September' dated 6 July 2006, IRINNEWS.ORG 'COTE D'IVOIRE: More violence surrounding identification programme' dated 26 July 2006, IRINNEWS.ORG 'COTE D'IVOIRE: First militia fighters hand over weapons' dated 27 July 2006, IRINNEWS.ORG 'COTE D'IVOIRE: Summit fails to break deadlock' dated 9 October 2006 & IRINNEWS.ORG 'COTE D'IVOIRE: AU hands down new peace blueprint' dated 18 October 2006

¹³ USSD 2005 (Introduction)

¹⁴ USSD 2005 (Introduction)

¹⁵ Human Rights Watch (HRW) World Report 2006 & USSD 2005 (Section 1)

maintains effective command and control over its forces and the extent to which UN peacekeepers could protect vulnerable groups of civilians are also of concern.¹⁶

- 2.16** The institutions that once provided benefits to ordinary Ivorians - the public education system, healthcare services, and the judicial system - continued to deteriorate during 2005, resulting in serious hardship particularly in the rebel-held north. Some four thousand French troops monitor a buffer zone or "Confidence Zone." between the government-controlled south and the rebel-controlled north of the country. A six thousand-strong United Nations peacekeeping mission, the United Nations Operation in Côte d'Ivoire (UNOCI), established in April 2004, is deployed country-wide. The issues at the heart of the Ivorian conflict - the exploitation of ethnicity for political gain, competition over land and natural resources, and corruption - remain unresolved.¹⁷
- 2.17** An Amnesty Law was passed in August 2003, covering all offences against the security of the state committed since the events of 17 and 18 September 2000, and those linked to the events of 19 September 2002. Serious human rights abuses and economic crimes do not fall under the scope of the amnesty. In April 2004, the National Assembly voted in favour of the creation of a National Commission on Human Rights, one of the requirements of the LMA. Since the coup of 1999 there have been very few prosecutions for human rights violations.¹⁸

3. Main categories of claims

- 3.1** This Section sets out the main types of asylum claim, human rights claim and Humanitarian Protection claim (whether explicit or implied) made by those entitled to reside in Ivory Coast. It also contains any common claims that may raise issues covered by the API on Discretionary Leave. Where appropriate it provides guidance on whether or not an individual making a claim is likely to face a real risk of persecution, unlawful killing or torture or inhuman or degrading treatment/ punishment. It also provides guidance on whether or not sufficiency of protection is available in cases where the threat comes from a non-state actor; and whether or not internal relocation is an option. The law and policies on persecution, Humanitarian Protection, sufficiency of protection and internal relocation are set out in the relevant API's, but how these affect particular categories of claim are set out in the instructions below.
- 3.2** Each claim should be assessed to determine whether there are reasonable grounds for believing that the claimant would, if returned, face persecution for a Convention reason - i.e. due to their race, religion, nationality, membership of a particular social group or political opinion. The approach set out in *Karanakaran* should be followed when deciding how much weight to be given to the material provided in support of the claim (see the API on Assessing the Claim).
- 3.3** If the claimant does not qualify for asylum, consideration should be given as to whether a grant of Humanitarian Protection is appropriate. If the claimant qualifies for neither asylum nor Humanitarian Protection, consideration should be given as to whether he/she qualifies for Discretionary Leave, either on the basis of the particular categories detailed in Section 4 or on their individual circumstances.
- 3.4** This guidance is **not** designed to cover issues of credibility. Caseworkers will need to consider credibility issues based on all the information available to them. (For guidance on credibility see para 11 of the API on Assessing the Claim)
- 3.5** All APIs can be accessed via the IND website at:

http://www.ind.homeoffice.gov.uk/ind/en/home/laws_policy/policy_instructions/apis.html

¹⁶ Human Rights Watch (HRW) World Report 2006 & USSD 2005 (Section 1)

¹⁷ Human Rights Watch (HRW) World Report 2006 & USSD 2005 (Section 1)

¹⁸ FCO Country Profile: Ivory Coast

3.6 Members of the Rassemblement des Republicains (RDR)

- 3.6.1** Many claimants will apply for asylum based on ill-treatment amounting to persecution at the hands of the state authorities due to their membership of, involvement with, or perceived involvement with a major opposition political party, the Rassemblement des Republicains (RDR).
- 3.6.2 *Treatment.*** The RDR was formally launched in October 1994 by a dissident faction of the then ruling PDCI. By the end of 1994 the RDR had replaced the FPI as the main opposition party. The RDR is seen as drawing most of its support from the north, whose populations are predominantly Muslim. Members and supporters of the RDR have been subject to arbitrary arrest, detention, extra-judicial killings and torture, as well as rape and other human rights violations by government security forces. Signs of an improvement in the situation of political activists were evident when, in early 2003 the RDR members reportedly detained by the Government in 2002 in what opposition parties deemed a 'witch hunt' were finally released from detention.¹⁹
- 3.6.3** In March 2003, Prime Minister Diarra formed a Government of National Reconciliation. The RDR were given seven of the 41 ministerial posts, including the Ministry of Justice. However, in March 2004 many people were rounded up and arrested by state security forces during a protest march by the opposition political parties pushing for the full implementation of the Linas Marcoussis peace accord. The round-ups occurred in the poorer areas inhabited primarily by West African immigrants and northern Ivorians, often perceived as supporters of the RDR. In response to the violence, the RDR suspended their involvement in the government. High-ranking RDR officials and leaders linked with rebel activities who were arrested in July and August 2004 were promptly released. During government attacks on rebel strongholds in the north in November 2004, crowds of a pro-government youth movement the Young Patriots ransacked RDR headquarters and RDR ministers' houses in Abidjan.²⁰
- 3.6.4** There were no significant reports in 2005 of attacks on RDR members or activists by state-sponsored agents.²¹ In 2005, pro-government militias and groups, sometimes working together with state security forces, intimidated and at times attacked opposition party members.²² During 2005, security forces continued to arrest and usually release RDR party members and officials and persons of northern origins thought to be close to the rebellion. RDR members occasionally had difficulties associating freely in 2005, and there were reports that security forces harassed and detained RDR members who tried to meet.²³ In July 2006, the RDR also reported that its militants were attacked in clashes over the United Nations-backed identification programme which proposes to issue identification cards to over 3 million unregistered people to enable them to vote.²⁴
- 3.6.5 *Sufficiency of protection.*** As this category of claimants' fear is of ill-treatment/persecution by the state authorities, they cannot apply to these authorities for protection.
- 3.6.6 *Internal relocation.*** Although there were reports in 2005 that security forces and other government agencies operated roadblocks on major roads in the government controlled south during 2005, where they demand that motorists or passengers produce identity and vehicle papers and regularly extort small amounts of money, the Government generally does not prevent internal travel or freedom of movement.²⁵ For lower-level RDR members

¹⁹ FCO Country Profile: Ivory Coast, Amnesty International (AI) Annual Report 2005 & USSD 2004 (Sections 1 & 2)

²⁰ FCO Country Profile: Ivory Coast, AI Annual Report 2005 & USSD 2004 (Sections 1 & 2)

²¹ BBC News. Timeline: Ivory Coast

²² HRW World Report 2006 & USSD 2005 (Section 1)

²³ USSD 2005 (Section 1)

²⁴ BBC News 'Ivorian ID scheme sparks clashes' dated 23 July 2006 & IRINNEWS.ORG 'COTE D'IVOIRE: More violence surrounding identification programme' dated 26 July 2006

²⁵ USSD 2005 (Section 2)

Internal relocation from government controlled to FN held areas, from where the RDR draws most of its support, would therefore be an effective way to avoid any risk of mistreatment at the hands of the state and would not be unduly harsh. However, internal relocation may not always be a viable option for high-level RDR directors or leading activists.

3.6.7 **Caselaw.**

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

3.6.8 Conclusion. The RDR is one of the main opposition groups to play a major role in opposition political activity. It is a registered party and therefore being a member is not illegal. In spite of the party's activities continuing to be subject to restrictions by the Government during 2004 and 2005, RDR affiliates are not considered to be at risk of treatment amounting to persecution on the basis of their membership of, or association with the party. Membership of, involvement in, or perceived involvement in the RDR at low or medium level is not likely to lead to the level of ill-treatment that would amount to persecution. The grant of asylum in such cases is therefore not likely to be appropriate. In cases where claimants are able to demonstrate that they are a high-level RDR director or leading activist, there may be a real risk that the claimant will encounter ill-treatment amounting to persecution. The grant of asylum in such cases may therefore be appropriate.

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

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

3.7.2 Treatment. The FN are comprised of three former rebel groups; the Patriotic Movement of Ivory Coast (MPCI), the Ivorian Popular Movement of the Far West (MPIGO) and the Movement for Peace and Justice (MJP). The MPCI was created in late September 2002 while the MPIGO and MJP emerged in the west in October 2002. The north and most of the west of the country is under the control of the FN. In March 2003, Prime Minister Diarra selected nine members of the FN to represent the newly formed Government of National Reconciliation. The FN human rights record in the north includes summary executions, the killing of numerous civilians, arbitrarily arrests and detention, as well as arbitrary ad hoc justice.²⁶

3.7.3 Numerous demonstrations occur in the FN-controlled territory, which are usually organised by the MPCI and in support of the FN and against President Gbagbo. The FN joined the PDCI opposition party in arranging the anti-Gbagbo protest march in March 2004, which resulted in the death of many demonstrators at the hands of the government security forces. Consequently the FN suspended their involvement in the Government of National Reconciliation. President Gbagbo also dismissed three opposition ministers from Ivory Coast's broad-based interim government, including Guillaume Soro, the leader of the FN. Though the FN temporarily rejoined the transitional government in August 2004, relations with the governing party and President Gbagbo again deteriorated to the point where government forces attacked the FN's northern strongholds by air in November 2004. The immediate crisis and threat of a return to civil war was averted by the end of 2004.²⁷

²⁶ FCO Country Profile: Ivory Coast, HRW World Report 2005, AI Annual Report 2005 & USSD 2004 (Section 1)

²⁷ FCO Country profile: Ivory Coast, BBC News 'Ivorian rebel takes cabinet seat' dated 16 march 2006, HRW World Report 2005, AI Annual Report 2005 & USSD 2004 (Section 1)

- 3.7.4** Tense and fragile relations between the Government and the FN have continued into 2005 and 2006. In April 2005, the rebels declared an end to their armed conflict, and Guillaume Soro, the leader of the FN, returned to the Cabinet in March 2006 as Minister of Reconstruction. However, tensions remain regarding the United Nations-backed identification programme and by August 2006 the rebels still refused to turn in their guns until pro-government militias disarmed.²⁸ A new security force of about 1,700 men was created by Presidential decree in July 2005 to ensure security in Abidjan. However, during 2005 and 2006 the police, army and, to a lesser extent, armed militias reportedly engaged in systematic and widespread extortion, racketeering and intimidation of businessmen, street traders, and motorists among others. Perceived rebel (FN) sympathisers were believed to be particularly targeted.²⁹
- 3.7.5** In 2005, there were credible reports that the FN rebels systematically extorted money and pillaged goods, including livestock and foodstuffs, from civilians in villages both under their control and within the buffer zone. Suspected government collaborators and spies were on several occasions tortured and summarily executed by rebel leaders. In the north, rebel commanders arbitrarily dispense justice, in turn leading to severe violations of human rights: numerous individuals accused of common crimes are arbitrarily detained within prisons, informal detention centres and military camps for often extended periods of time. The Dozos, a traditional tribally based civil defense group now working in coordination with the Forces Nouvelles, has also committed serious violations including extortion, arbitrary detention, torture and rape.³⁰
- 3.7.6** **Sufficiency of protection.** As this category of claimants' fear is of ill-treatment/persecution by the state authorities, they cannot apply to these authorities for protection.
- 3.7.7** **Internal relocation.** There were reports in 2005 that persons living in areas under FN control faced some harassment and extortion from local military authorities when trying to travel between towns, and to and from the government-controlled south, but these are not sufficiently serious to prevent freedom of movement. Equally, although security forces and other government agencies operated roadblocks on major roads in the government controlled south during 2005, where they demand that motorists or passengers produce identity and vehicle papers and regularly extort small amounts of money, the Government generally does not prevent internal travel or freedom of movement.³¹ Therefore, though this category of claimants' fear is of ill-treatment/persecution by the state authorities, relocation to the FN-dominated rebel-held north for members of the FN would be an effective way of avoiding any risk of ill-treatment and would not be unduly harsh.
- 3.7.8** **Conclusion.** Since the conclusion of the provisional disarmament agreement between the Government and the FN in April 2005, there have been no reports of substantial recurrences of the armed conflict or human rights abuses that were widely documented in 2004. Though relations between the two sides remain tense and progress towards permanent reconciliation is subject to continual disagreements and delays, it is likely that claimants who cite their involvement with, perceived involvement with or membership of FN will not now be able to adduce a real risk of ill-treatment amounting to persecution at the hands of the authorities within the terms of the 1951 Convention. The grant of asylum in such cases is not therefore likely to be appropriate.
- 3.7.9** Caseworkers should note that members of the FN have been responsible for numerous serious human rights abuses (see para 3.7.5), some of which amount to war crimes and crimes against humanity. If it is accepted that a claimant was an active operational member or combatant for the FN and the evidence suggests he/she has been involved in such

²⁸ FCO Country profile: Ivory Coast, HRW World Report 2006, AI Annual Report 2006, USSD 2005 (Section 1) & IRINNEWS.ORG 'COTE D IVOIRE: Disarmament suspended as militia fail to turn in arms' dated 4 August 2006

²⁹ HRW World Report 2006, AI Annual Report 2006 & USSD 2005 (Section 1)

³⁰ HRW World Report 2006, AI Annual Report 2006 & USSD 2005 (Section 1)

³¹ USSD (Section 2)

actions, then caseworkers should consider whether one of the Exclusion clauses is applicable. Caseworkers should refer all such cases within this category of claim to a Senior Caseworker in the first instance.

3.8 Non-Ivorians and/or Muslims from the north

- 3.8.1** Some claimants will apply for asylum based on societal discrimination or state-sponsored ill-treatment amounting to persecution due to them being of immigrant origin or belonging to an ethnic or religious group considered to be non-Ivorian. On a national level, the conflict is essentially between Muslim and/or 'non-citizen' immigrants in the rebel-held north and the pro-government mainly Christian population in the south.
- 3.8.2 *Treatment.*** Ivory Coast is home to 60 ethnic groups, including the Akan, of which the Baoule is the largest sub-group, the Senoufou, the Mande/Dioula, the Krou and the Yacouba. At least 26% of the population is foreign, and of that group, 95% were other Africans. There are more than 5 million West African immigrants living in the country. Most of the Africans were from neighbouring countries, with half from Burkina Faso. Birth in the country does not automatically confer citizenship. Outdated or inadequate land ownership laws result in conflicts with an ethnic and anti-foreigner aspect.³²
- 3.8.3** In 2004, some Muslims believed that their religious or ethnic affiliation made them targets of discrimination by the Government with regard to both employment and the renewal of national identity cards. This created a hardship for a disproportionate number of Muslim citizens. There were several reports in 2004 of violence and increased Christian/Muslim tensions, generally in the north and west regions. Relations between Muslims and Christians, specifically Catholics, in the south improved during 2004. In January 2004, to celebrate the New Year, leaders of all major religious groups and the Minister of Religion met within the Forum of Religious Groups, an NGO-inspired, interdenominational gathering. In April 2004 an inter-faith memorial service was held in Abidjan to mourn those killed during the March 2004 demonstrations. Religious leaders continued to attend each other's main religious celebrations, setting an example of reconciliation for their respective communities.³³
- 3.8.4** In December 2004, the National Assembly made changes to the nationality code and adopted a Special Law on Naturalization, legislation that was envisioned by the Marcoussis Accord to resolve the dispute over which persons born of foreign parents before 1972 should be entitled to citizenship and to simplify procedures to obtain citizenship for this group and for foreigners married to citizens. The legislation that was eventually passed resolved the citizenship question for those born before 1960 but not for those born between 1960 and 1972. On 15 July and 29 August 2005, the President signed new drafts of laws on nationality and naturalization in an effort to address the concerns of the opposition parties; however, the legislation remains a contentious issue.³⁴
- 3.8.5** Serious societal and political tensions between the 'Ivorian' south and the immigrant 'non-Ivorian' groups in the north (regarded as non-citizens) continued in 2005. Members of northern ethnic groups that were found in neighbouring countries as well as in the country often were required to document their citizenship, whereas members of formerly or presently politically powerful ethnic groups of the west, south, and centre reportedly were not required to do so. Police routinely abused and harassed non-citizen Africans residing in the country. Official harassment reflected the frequently encountered belief that foreigners were responsible for high crime rates, as well as a concern for identity card fraud. Harassment of northerners increased markedly after the 2002 rebellion.³⁵

³² FCO Country profile: Ivory Coast & USSD 2005 (Section 5)

³³ HRW World Report 2005, AI Annual Report 2005 & USSD 2004 (Sections 1 & 5)

³⁴ USSD 2005 (Section 5)

³⁵ USSD 2005 (Section 5)

- 3.8.6 Sufficiency of protection.** If this category of claimants' fear is of ill-treatment/persecution by the state authorities, they cannot apply to these authorities for protection. If this category of claimants' fear is of ill-treatment/persecution as a result of societal discrimination or by other non-state agents, there is insufficient evidence that the state authorities would be able to offer adequate protection to those of 'non-Ivorian' or Muslim background.
- 3.8.7 Internal relocation.** There were reports in 2005 that persons living in areas under FN control faced some harassment and extortion from local military authorities when trying to travel between towns, and to and from the government-controlled south, but these are not sufficiently serious to prevent freedom of movement. Equally, although security forces and other government agencies operated roadblocks on major roads in the government controlled south during 2005, where they demand that motorists or passengers produce identity and vehicle papers and regularly extort small amounts of money, the Government generally does not prevent internal travel or freedom of movement.³⁶ 'Non-Ivorians' are found pre-dominantly in northern, rebel-held regions, but they are represented in communities throughout the country.³⁷ Internal relocation from government controlled to FN held areas would therefore be an effective way to avoid a real risk of mistreatment at the hands of the state. Those fearing localised mistreatment at the hands of non-state authorities could effectively avoid that risk by relocating either in government or FN controlled areas, and it would not be unduly harsh to expect them to do so.
- 3.8.8 Conclusion.** There have been frequent reports over the past few years of state and non-state violence and discrimination stemming from the long-standing political and armed dispute between north and south about citizenship rights for immigrant ethnic and religious minorities. There have been recent problems regarding the disarmament and identification programmes, but there has been progress, albeit slow, in 2005 and 2006 towards implementing reforms to enfranchise 'non-citizens'. FN rebels have pledged to continue disarming and the availability of a viable internal relocation option means it is unlikely that claimants of 'non-Ivorian' background and/or who are Muslims from the north will be able to establish a real risk of ill-treatment amounting to persecution, either by the state authorities or non-state agents based solely on their immigrant status and/or religious affiliation. The grant of asylum in such cases is therefore unlikely to be appropriate.

3.9 Female Genital Mutilation (FGM)

- 3.9.1** Some claimants will apply for asylum based on ill-treatment amounting to persecution at the hands of non-state agents, usually community elders or tribal leaders, because they have undergone, are liable for, or face pressure to carry out on others, female genital mutilation (FGM).
- 3.9.2 Treatment.** FGM is a serious problem in Ivory Coast. It is practised primarily among the rural Muslim populations and is deeply rooted in traditional Animist initiation rites in the north and west, and to a lesser extent in central regions. The procedure usually is performed on young girls or at puberty as a rite of passage. According to the World Health Organisation (WHO) and the Ivorian Association for the Defence of Women (AIDF), as many as 60% of women have undergone FGM. Many families in cities go back to their villages to have their daughters circumcised. The practice is declining in popularity, but persists in many places. In July 2004, the National Committee for the Fight Against Harmful Traditional Practices adopted more efficient strategies to combat FGM including raising the awareness of traditional chiefs, the creation of a permanent executive board, and the training of victims who could in turn sensitise the families of potential victims. In August 2004, the National Committee in charge of Fighting against Violence against Women and Children had arrested an FGM practitioner who was preparing to perform FGM on four girls in Yopougon in Abidjan.³⁸

³⁶ USSD 2005 (Section 2)

³⁷ USSD 2005 (Section 2)

³⁸ USSD 2004 (Section 5)

- 3.9.3** There was a decreasing incidence of FGM in 2005. During the year, more than 30 practitioners in Abobo District turned in their instruments and promised to stop performing FGM as a result of a campaign by a local NGO, the National Organisation for Child, Woman, and Family. However, unlike in 2004, no practitioners were arrested. In August 2005, a group of 68 girls from the north participated in an excision ceremony and celebration in the Abobo district of Abidjan. The Government reportedly took no action to arrest the practitioners.³⁹
- 3.9.4 *Sufficiency of protection.*** Ivorian law specifically forbids FGM and imposes on those who perform it criminal penalties of imprisonment for up to 5 years and a fine of approximately US\$690 to US\$3,800 (360,000 to 2 million CFA francs); double penalties apply to medical practitioners. Several practitioners were prosecuted for performing FGM in 2004.⁴⁰ In 2005, the National Committee in Charge of Fighting against Violence against Women and Children, under the Ministry of Women, Family and Children's Affairs, had a hot line for abused women, helped provide shelters for victims of abuse, and counselled abusive husbands. The Committee also monitored abusive situations through frequent visits. Young girls who feared becoming victims of abuse, FGM, or forced marriage could appeal to the committee, which arranged for shelter in facilities run by the Government or NGOs. The Committee often stopped abuse by threatening legal action against offending parents or husbands.⁴¹ Those in fear of undergoing, or being forced to perform FGM are therefore able to seek and receive adequate protection from the authorities.
- 3.9.5 *Internal relocation.*** FGM is a regionalised practice concentrated mainly in the north of the country. There were reports in 2005 that persons living under the FN authority faced regular harassment, victimisation and extortion when trying to travel between towns, and to and from the government-controlled south. Though security forces and other government agencies operated roadblocks on major roads, where they demand that motorists or passengers produce identity and vehicle papers and regularly extort small amounts of money (particularly from those intending to travel north from government-controlled areas to FN territory), the Government generally does not prevent internal travel or freedom of movement. With FGM being a localised practice and the authorities able to provide adequate protection in other accessible regions,⁴² those in fear of undergoing, or being forced to perform FGM are therefore able to internally relocate to another part of the country to escape this threat.
- 3.9.6 *Caselaw.***
- DI (Ivory Coast) CG [2002] UKIAT 04437.** Threat of female genital mutilation. The claimant alleged that her Article 3 and 8 rights would be breached due to the threat of FGM. The Tribunal found that there was protection available in Ivory Coast and an internal flight option.
- 3.9.7 *Conclusion.*** While FGM remains a serious problem in Ivory Coast, particularly in the predominantly Muslim north, it is illegal and practitioners have been prosecuted under anti-FGM legislation. The availability of adequate state protection and a viable internal relocation alternative means that claims are unlikely to engage the UK's obligations under the 1951 Convention or the ECHR. Those having undergone, who fear being subjected to, or being forced to carry out, FGM will therefore not encounter ill-treatment amounting to a breach of the 1951 Convention or the ECHR. The grant of asylum or Humanitarian Protection in such cases is therefore unlikely to be appropriate.

3.10 Prison conditions

³⁹ USSD 2005 (Section 5)

⁴⁰ USSD 2004 (Section 5)

⁴¹ USSD 2005 (Section 5)

⁴² USSD 2005 (Section 2)

- 3.10.1** Claimants may claim that they cannot return to Ivory Coast due to the fact that there is a serious risk that they will be imprisoned on return and that prison conditions in Ivory Coast are so poor as to amount to torture or inhuman treatment or punishment.
- 3.10.2** The guidance in this section is concerned solely with whether prison conditions are such that they breach Article 3 of ECHR and warrant a grant of Humanitarian Protection. If imprisonment would be for a Refugee Convention reason, or in cases where for a Convention reason a prison sentence is extended above the norm, the claim should be considered as a whole but it is not necessary for prison conditions to breach Article 3 in order to justify a grant of asylum.
- 3.10.3 *Consideration.*** Prison conditions in 2005 were poor and in some cases life threatening in the country's 33 prisons, largely because of inadequate budgets and overcrowding. For example, the country's main prison, MACA, was built for 1,500 but held approximately 3,400 detainees. Each prisoner had an average of 47 square inches of sleeping space. Conditions in MACA were notoriously bad, especially for the poor. Wealthy prisoners reportedly could "buy" extra cell space, food, and even staff to wash and iron their clothes. There were credible reports that prisoners frequently brutalised other prisoners for sleeping space and rations. However, there were no reports that guards brutalised prisoners. Medecins sans Frontieres (MSF) supplemented the prison system's inadequate medical facilities and contributed to the prison budget. Several small national and international charities also helped some prisoners. There were press reports of a flourishing drug trade and prostitution in MACA. Families frequently supplemented the food ration, and at some prisons inmates grew vegetables to feed themselves. The International Committee of the Red Cross (ICRC) helped feed prisoners with no family.⁴³
- 3.10.4** Unlike in 2004, there were no reports that prisoners died during prison riots; in 2004 at least 7 prisoners died and 30 were injured in riots to protest a lengthy water shortage. UN officials investigating the riot had not provided a death toll by the end of 2005. There also were no reports that prisoners were killed while trying to escape; in 2004 security forces shot and killed 19 prisoners and injured 66 others who were attempting to escape.⁴⁴
- 3.10.5** Male minors are held separately from adult men, but the physical barriers at the main MACA prison were inadequate to enforce complete separation in 2005. Prison conditions for women and children remained particularly difficult in 2005. Female prisoners were segregated in a separate building under female guard. There were continued reports in 2005 that female prisoners engaged in sexual relations with wardens to get food and privileges. There were no health facilities for women. Pregnant prisoners went to hospitals to give birth and then returned to prison with their babies. The penitentiary accepts no responsibility for the care or feeding of the infants, although the women reportedly received help from local NGOs.⁴⁵
- 3.10.6** During 2005, the International Catholic Office for Children (BICE) helped conduct physiological tests to determine the ages of 323 children. The BICE helped locate the families of 597 jailed children to facilitate their return upon release. The BICE also built a separate facility to hold children at the Divo Prison. Pretrial detainees were held with convicted prisoners. A 2004 study by Notre Voie reported that of 3,400 prisoners held in MACA, 30% were pre-trial detainees and were held with convicted prisoners. The Government permitted access to prisons by local and international NGOs including the ICRC, MSF, World Doctors, and International Prisons' Friendship in 2005.⁴⁶
- 3.10.7 *Conclusion.*** Whilst prison conditions in Ivory Coast are poor and there are reports that officials act with impunity and regularly mistreat inmates, the information available does not suggest that particular groups of inmates are more at risk of such mistreatment than others

⁴³ USSD 2005 (Section 1)

⁴⁴ USSD 2005 (Section 1)

⁴⁵ USSD 2005 (Section 1)

⁴⁶ USSD 2005 (Section 1)

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

4. Discretionary Leave

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

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

4.3 Minors claiming in their own right

4.3.1 Minors claiming in their own right who have not been granted asylum or HP can only be returned where they have family to return to or there are adequate reception, care and support arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception, care and support arrangements in place.

4.3.2 Minors claiming in their own right without a family to return to, or where there are no adequate reception, care and support arrangements, should if they do not qualify for leave on any more favourable grounds be granted Discretionary Leave for a period of three years or until their 18th birthday, whichever is the shorter period.

4.4 Medical treatment

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

4.4.2 The public health system, including the provision for safe water and sanitation, has been severely disrupted. 80% of health facilities that existed before the outbreak of the conflict in September 2002 in the north and west of the country have closed or operate at best with minimal facilities. Health facilities in the south are over-stretched due to the influx of internally displaced persons in need of medical attention. The outbreak of measles and cholera poses serious health problems. The provision of preventative and reproductive health care has also been negatively affected by the crisis.⁴⁷

4.4.3 Several aid agencies were present in Ivory Coast during 2005. They included the International Committee of the Red Cross (ICRC), the Ivorian Red Cross, Medecins Sans Frontières, Action Internationale Contre le Faim (AICF), and the United Nations Childrens Fund (UNICEF). In Abidjan, privately-run medical and dental facilities are adequate.

⁴⁷ United Nations Security Council (UNSC): Fourth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire dated 18 March 2005, World Health Organisation (WHO): Selected Indicators, WHO Mental Health Atlas 2005 & USSD 2005 (Section 1)

Pharmacies are well-stocked with medications produced in Europe, though newer drugs may not be available. Medical care in Ivory Coast outside of Abidjan is extremely limited. Medical treatment of a reasonable standard is available, but can be expensive. Anti-retroviral treatment for AIDS/HIV is available with grants and donations from western governments and international organisations throughout 2003 and 2004 considerably reducing the per-person cost.⁴⁸

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

5. Returns

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

- 5.2** In a position paper dated January 2004, the United Nations High Commissioner for Refugees (UNHCR) advised that the return of unsuccessful asylum seekers originating from Abidjan should be approached with caution and that it is not safe for those originating from outside the capital to return.⁴⁹ This view was reaffirmed in the UNHCR's paper of October 2006, in which it was stated that no asylum seeker should be forcibly returned to Ivory Coast until such time as the security and human rights situation in the country has improved sufficiently to justify it.⁵⁰ The UNHCR's position provides a broad assessment of the situation in Ivory Coast and it presents an accurate overview of the general humanitarian situation and the social and security problems inherent in Ivory Coast. However, asylum and human rights claims are not decided on the basis of the general situation - they are based on the circumstances of the particular individual and the risk to that individual. We therefore do not share the UNHCR's view that every Ivorian should automatically be entitled to some form of protection. Similarly, we do not share the UNHCR's view with regard to the return of Ivorian failed asylum seekers and any individual Ivorian claimant found by the Home Office and the independent appeals process not to be in need of international protection may return safely to Ivory Coast.

5.3 Case law.

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

- 5.4** Ivorian nationals may return voluntarily to any region of Ivory Coast at any time by way of the Voluntary Assisted Return and Reintegration Programme run by the International Organisation for Migration (IOM) and co-funded by the European Refugee Fund. IOM will provide advice and help with obtaining travel documents and booking flights, as well as organising reintegration assistance in Ivory Coast. The programme was established in 2001, and is open to those awaiting an asylum decision or the outcome of an appeal, as

⁴⁸ UNSC: Fourth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire dated 18 March 2005, WHO: Selected Indicators, WHO Mental Health Atlas 2005 & USSD 2005 (Section 1)

⁴⁹ United Nations High Commissioner for Refugees (UNHCR) position paper on the return of failed asylum seekers to Ivory Coast January 2004

⁵⁰ UNHCR: Update on International Protection Needs of Asylum Seekers from Cote D'Ivoire

well as failed asylum seekers. Ivorian nationals wishing to avail themselves of this opportunity for assisted return to Ivory Coast should be put in contact with the IOM offices in London on 020 7233 0001 or www.iomlondon.org.

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