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**First report of the Secretary-General on the United Nations
Mission in Côte d'Ivoire**
I. Introduction

1. By its resolution 1479 (2003) of 13 May 2003, the Security Council established the United Nations Mission in Côte d'Ivoire (MINUCI), for an initial period of six months, with a mandate to facilitate the implementation of the Linas-Marcoussis Agreement (S/2003/99, annex I). The Council also requested me to submit a report every three months on the implementation of that resolution. The present report was prepared pursuant to that request. It provides an assessment of the security and humanitarian situation in Côte d'Ivoire, as well as the steps taken by the Government of National Reconciliation towards implementing the Marcoussis Agreement. The report also describes the progress made in deploying the initial group of 26 United Nations military liaison officers to Côte d'Ivoire and the Mission's plan for the progressive deployment of the remaining 50 military liaison officers, in accordance with Security Council resolution 1479 (2003).

II. Security situation

2. The security situation in Côte d'Ivoire has continued to improve since the submission of my report of 26 March 2003 (S/2003/374 and Corr.1). In order to consolidate the ceasefire agreement of 17 October 2002, the Forces armées nationales de Côte d'Ivoire (FANCI) and the Forces nouvelles, comprising the Mouvement patriotique de Côte d'Ivoire (MPCI), the Mouvement populaire ivoirien du grand ouest (MPIGO) and the Mouvement pour la justice et la paix (MJP), signed a new comprehensive ceasefire agreement on 3 May. Under the terms of that agreement, the French Licorne forces and the forces of the Economic Community of West African States (ECOWAS) deployed to the western region of Côte d'Ivoire jointly with FANCI and the Forces nouvelles on 24 May, to create a weapons-free zone of confidence, extend the ceasefire line to the border between Côte d'Ivoire and Liberia, and disarm or expel armed Liberian elements from that area. As a result of that deployment, the security situation in the inaccessible western region of the country has significantly improved, resulting in the return of displaced villagers and the resumption of humanitarian activities.

3. Within the framework of the comprehensive ceasefire agreement, FANCI and the Forces nouvelles have established a mechanism for conducting a dialogue on

security issues, through which they have reached agreement on specific cantonment areas for their respective troops. That dialogue and the disengagement of their forces have helped in building confidence between the two sides and in lessening tensions along the ceasefire line. The two sides, together with the Licorne and ECOWAS forces, have set up a joint operations headquarters in Bouaké and Bangolo, to facilitate coordination among the quadripartite forces.

4. Another significant development was the declaration issued on 4 July by FANCI and the Forces nouvelles formally proclaiming the end of the war in Côte d'Ivoire. Both sides pledged their loyalty to the President and undertook to resolve all future disputes through peaceful dialogue.

5. There remain, however, negative trends which threaten to reverse the important gains achieved on the security front. The initial improvement in the security situation in Abidjan, which had justified the downgrading of the security alert for the capital from phase 4 to phase 3, is now marred by the activities of armed militia groups who are opposed to the Marcoussis Agreement. In particular, the activities of the militias of the Groupement patriotique pour la paix based in the Marcory and Yopougon districts of Abidjan, and the so-called "young patriots", have created serious security and human rights challenges in the capital. The related activities of some prominent political figures, who have been calling for a campaign of civil disobedience against Cabinet Ministers affiliated with the Forces nouvelles, have also created tensions in the country.

6. Uncontrolled elements of the Forces nouvelles, who maintain checkpoints along major roads in the northern part of the country, as well as the "freelance" armed Liberian elements who still maintain a presence in the western region, constitute another major challenge to the fragile stability in the country. There are also confirmed reports about continuing rearmament by FANCI, as well as suspicions that the Forces nouvelles are rearming, which have given rise to allegations about ulterior motives. Those arms purchases undermine the confidence between the two sides and could erode the commitment of the Forces nouvelles to the disarmament of their forces.

7. The continued "partitioning" of the northern and southern parts of the country as a result of the control and administration of the northern region by the Forces nouvelles is also perpetuating a climate of uncertainty, which reinforces fears about possible renewed hostilities. Of particular concern in this regard are the measures reportedly taken by the Forces nouvelles to reorganize their forces into units corresponding to the gendarmerie, army and police forces of a State administration. The Forces nouvelles claim, however, that the restructuring was intended to ensure more effective control and facilitate payment of wages.

III. Implementation of the Linas-Marcoussis Agreement

8. The efforts of the Ivorian parties to move forward the implementation of the Marcoussis Agreement have yielded similarly mixed results. On the positive side, the Government of National Reconciliation has been installed and is now functioning under the leadership of the Prime Minister, Seydou Diarra. The Cabinet Ministers affiliated with the Forces nouvelles, who had boycotted the first three meetings of the Council of Ministers citing security concerns, eventually arrived in Abidjan to take up their posts in the new Government on 16 April. On 28 May, the

new Government presented its draft programme for the implementation of the Marcoussis Agreement, which is currently being considered by the National Assembly. The programme proposes mechanisms and ways of addressing the key issues identified in the Marcoussis Agreement, including citizenship, national identity and the status of foreign nationals; the electoral system; eligibility for election to the Presidency of the Republic; land tenure laws; the media; rights and freedoms of the individual; economic recovery and social cohesion; and disarmament, demobilization and reintegration.

9. The proposed programme envisages the setting up of mechanisms to work towards the development of effective proof of Ivorian nationality consistent with applicable laws. These mechanisms include a national commission on naturalization to review the existing naturalization laws, study comparable legislation on the identification process in ECOWAS countries and recommend residence permit requirements for ECOWAS nationals, as well as measures to improve the status of foreign nationals. The commission is expected to complete its work within nine months.

10. With respect to the electoral system, the Government intends to restructure the Independent Electoral Commission, introduce legislation to ensure credible voter identification, review the process of preparing the voters' register, address the question of funding for political parties, and take measures to guarantee the independence of the judiciary in adjudicating on electoral disputes. The process of reforming the electoral system is expected to be completed within a period of eight months. On the related issue of eligibility for election to the Presidency of the Republic, the Government, in keeping with the Marcoussis Agreement, would adopt measures over a period of five months to set the minimum age of candidates at 35 years and limit the tenure of office to two five-year terms. The candidates must be Ivorian citizens with either of their parents born Ivorians.

11. With respect to the rights and freedoms of the individual, the measures envisaged in the programme include the setting up of a National Human Rights Commission, and the establishment of an international commission to investigate cases of serious violations of human rights and international humanitarian law that have occurred since the outbreak of the conflict in September 2002. Concerning the media, the programme foresees measures that would be instituted over a period of some 30 months, beyond the elections of 2005. They include legislation to ensure the freedom of the press and to strengthen the media regulatory bodies, as well as measures against abuses such as calumny, hatred and xenophobia, and steps to ensure the impartiality of State-owned media.

12. With regard to the disarmament, demobilization and reintegration of former combatants, a team of experts from the World Bank and the United Nations Development Programme (UNDP) has been assisting the Government of National Reconciliation to design an effective programme. On 9 July, the Government announced a timetable for that programme, which foresaw the cantonment of forces commencing on 31 July and being completed by 15 August 2003. Disarmament would be conducted from 20 August to early September 2003, while demobilization would be completed by the end of September and reintegration by 20 October 2003. A programme for the voluntary disarmament of the civilian population would be implemented following the completion of the disarmament and demobilization of former combatants. Details of the disarmament, demobilization and reintegration

programme were presented to the Security Council when Prime Minister Seydou Diarra addressed the Council on 25 July. An office for the coordination of the disarmament, demobilization and reintegration programme in the northern part of the country was opened in the MPCI stronghold of Bouaké on 11 July. The Licorne and ECOWAS forces, as well as the United Nations military liaison officers, FANCI and the Forces nouvelles, will jointly run the office. The commencement of the disarmament was delayed, however, because the Forces nouvelles linked it to the adoption of an amnesty law and the appointment of the Defence and Interior Ministers.

13. The amnesty law was eventually adopted by the National Assembly on 6 August. The law grants amnesty to persons who committed political acts against the security of the State from September 2000 to September 2002, and allows exiles to return. It does not however grant immunity for crimes against humanity and serious economic offences. The amnesty bill had generated active debate both within and outside the National Assembly. Many Ivorians contended that the bill was premature and stressed the need to verify violations of human rights and identify perpetrators of human rights abuses before raising the question of amnesty. Supporters of the initiative argued that the adoption of the law was vital to the creation of an enabling environment that would facilitate the implementation of the Marcoussis Agreement, and further build the climate of confidence that is required for the pursuit of national reconciliation. The next critical stage in the development of the programme for the implementation of the Marcoussis Agreement will be the submission to the National Assembly of some 41 draft decrees and bills covering the issues referred to above.

14. Other significant steps taken by the Government of National Reconciliation towards implementing the Marcoussis Agreement include the ongoing efforts to extend State authority throughout the country and restore public services in the northern and western parts of the country. To that end, on 22 May, the Prime Minister convened a Cabinet session in the MPCI stronghold of Bouaké. The Government has also dispatched technical assessment missions, comprising officials from banking institutions and utility companies, to the north, with a view to facilitating the restoration of economic and social services. In the same vein, a train has provided a trial rail service to the north to pave the way for the reopening of the railway line to that area. Concurrent with the measures to reopen the rebel-controlled north, the Government has also initiated efforts to repair relations and restore trade links with the neighbouring countries Burkina Faso and Mali, which had been disrupted during the conflict.

15. Despite the progress described above, some key members of the ruling party, the Front populaire ivoirien (FPI), still generally view the Marcoussis Agreement as non-workable. They contend that the Agreement is in conflict with certain provisions of the Constitution of Côte d'Ivoire and that it therefore does not constitute the basis for long-term stability in the country. On this account, they have been actively attempting to undermine the implementation of the Agreement. In the National Assembly, FPI has severely criticized the Government's draft programme for the implementation of the Agreement, particularly those aspects relating to the sensitive issues relating to citizenship, national identity and the status of foreign nationals, which lie at the core of the political crisis in the country.

16. In addition, some key political figures opposed to the Marcoussis Agreement have been working with the so-called "young patriots" loyal to FPI to foment hostile acts against Cabinet Ministers affiliated with the Forces nouvelles. In this connection, the calls by the Speaker of the National Assembly for a civil disobedience campaign against the ministers from the Forces nouvelles have resulted in serious incidents that have given rise to concerns about the security of those ministers. The most serious incident occurred on 27 June when a mob of youths attacked the Minister for Communications and the Secretary-General of MPCl, Guillaume Soro, at the premises of the national broadcasting services, Radio Télévision ivoirienne (RTI). The Forces nouvelles viewed the incident as an assassination attempt and decided to delay the commencement of the disarmament process. The military commanders of the Forces nouvelles also issued a declaration calling for the withdrawal of their ministers from the Government of National Reconciliation and imposing a state of emergency in the northern part of the country, which was later rescinded.

17. Following that incident, the Licorne forces, the ECOWAS forces and the Government jointly stepped up efforts to provide effective security for all Cabinet Ministers and political leaders. ECOWAS has deployed specialized security protection personnel as part of its peacekeeping force, while the Government has created a special protection unit within the national gendarmerie, with funding from the European Union and Canada.

18. Other disruptive activities by elements from both sides have aimed at undermining the efforts to reunify the country. These include the destruction of part of the railway line in Abidjan by the "young patriots", in order to prevent the restoration of railway services to the north, and the arrest by MPCl of officials dispatched to the north by the Government to assess the requirements for the restoration of public services in that area. The officials were later released.

19. Another important issue that continues to fuel political tensions and frustrations among the parties signatory to the Marcoussis Agreement is the stand-off over the appointments of the Ministers of Defence and the Interior. The two portfolios are currently held by acting Ministers. There is also still an impasse over the appointment of the Minister for Women's, Children's and Family Affairs. In all three cases, the President, Laurent Gbagbo, has rejected the candidates proposed by the political parties. In his address to the Security Council on 25 July, the Prime Minister indicated his intention to devote his efforts to resolving this matter as expeditiously as possible.

IV. Activities of the Monitoring Committee

20. The Monitoring Committee, which oversees the implementation of the Marcoussis Agreement under the leadership of my Special Representative, Albert Tevoedjre, has been engaged in efforts to assist the parties in addressing the challenges described above. The Committee has been meeting on a regular basis to address issues before and since the formation of the new Government. It also receives representations concerning grievances from all the political forces, and has offered explanations or mediated differences of views in the interpretation of the Marcoussis or Accra Agreements. These mediation efforts are intended to promote mutual trust among all political actors. The Committee has embarked on

encouraging civil society organizations such as non-governmental organizations, traditional rulers, women's groups, the press and parliamentary groups to make their views known on outstanding political issues, especially in the period leading to the elections scheduled for 2005. The Committee has decided to meet at least once a week to review the overall political and security situation.

V. Deployment of the Mission

21. On 27 May, Brigadier General Abdul Hafiz (Bangladesh) was appointed Chief Military Liaison Officer of MINUCI. He visited United Nations Headquarters for pre-deployment briefings from 4 to 7 June, after which he and a small group of military liaison officers were deployed in Abidjan to begin setting up the Mission's military headquarters. The group of 26 military liaison officers authorized for the initial deployment under Security Council resolution 1479 (2003) underwent pre-deployment training at the headquarters of the United Nations Mission in Sierra Leone in Freetown, from 16 to 22 June, after which they were deployed to MINUCI on 23 June.

22. On 4 July, the Mission deployed three teams of military liaison officers to key locations in Abidjan, including two officers at FANCI operational headquarters, one officer at the ECOWAS command headquarters, and two officers at the Licorne headquarters at Port-Bouët. Field deployments of military liaison officer teams, including two officers at the FANCI theatre command headquarters at Yamoussoukro and four officers at the Forces nouvelles headquarters at Bouaké, were completed on 9 July. In addition, two officers were deployed to Duékoué in western Côte d'Ivoire on 24 July. Those field teams are currently focusing on monitoring the security situation on a 24-hour basis and establishing liaison with all the parties, and with the ECOWAS and Licorne forces. To date, the military liaison officer teams have received a reasonable degree of cooperation from their interlocutors. A total of 13 military liaison officers are assigned to the MINUCI headquarters in Abidjan.

23. In view of the improvement in the security situation in western Côte d'Ivoire following those quadripartite deployments there, and given the monitoring and support role that MINUCI is expected to play with respect to the disarmament, demobilization and reintegration programme, the Mission has requested approval for the immediate deployment of a second group of six military liaison officers, to be followed by a third group of 10 officers, out of the remaining 50. The deployment of the requested officers has been authorized and the mobilization of the necessary personnel is under way. Pursuant to paragraph 4 of Security Council resolution 1479 (2003), the remaining military liaison officers will be deployed progressively as needed and when security conditions permit. It is envisaged that the pace of their deployment will be determined mainly by the volume of activities related to the disarmament, demobilization and reintegration programme, as well as monitoring and liaison requirements in western and northern Côte d'Ivoire.

24. MINUCI has developed a plan under which military liaison officers will be deployed to nine team sites as follows: one team at Bouaké with 10 officers; one team at Korhogo with 6 officers, with oversight responsibility for Ouangolo and Ferké; one team at Yamoussoukro with 6 officers, with oversight responsibility for Daoukro, Bouaflé and Mbahiakro; one team at Bondoukou with 4 officers, with

oversight responsibility for Bouna; one team at Man with 6 officers, with oversight responsibility for Odienne; one team at Duékoué with 6 officers, with oversight responsibility for Guiglo and Toulépleu; one team at Daloa with 4 officers, with oversight responsibility for Vavoua and Séguéla; one team at San-Pédro with 4 officers; and one team at Abidjan with 8 officers. As the total number of military liaison officers deployed in the field increases, the military staff at MINUCI headquarters will be reinforced with an additional nine officers, bringing the total number of military liaison officers assigned to headquarters to 22 officers. This plan will be reviewed regularly with a view to adapting it to the evolving situation on the ground and activities in the disarmament, demobilization and reintegration programme.

VI. Human rights

25. Protection of the civilian population, especially vulnerable groups, remains a major challenge in Côte d'Ivoire. Persistent violence and lack of security continue to undermine the protection of human rights throughout the country. Although the destruction of shanty towns in Abidjan has been somewhat curbed at the initiative of mayors and as a result of court orders, several incidents have been reported recently. According to information received, some human rights defenders and civil society activists continue to receive death threats. Others have gone into exile or have been forced to hide and regularly change their location. On 5 April 2003, the office of the Mouvement ivoirien des droits de l'homme in Abidjan was looted. In the west of the country, incidents of looting in towns and villages and extorting money from civilians continue to be reported, but on a lesser scale since the creation of the zone of confidence.

26. In March 2003, an independent Ministry of Human Rights was established, replacing the human rights portfolio which until then had been under the authority of the Minister of Justice. Another positive development is the Government's agreement in principle to visits by the special rapporteurs of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and the promotion and protection of the right to freedom of opinion and expression, as well as by my Special Representative on internally displaced persons.

27. In response to a request by President Gbagbo in a letter dated 21 February 2003, I dispatched an advance team to Côte d'Ivoire to conduct a feasibility study on the establishment of an international commission of inquiry into human rights violations committed during the conflict. The team, which was led by the Office of the United Nations Commissioner for Human Rights (OHCHR), visited Abidjan, Bouaké, Korhogo, Man, Bangolo, Duékoué and Yamoussoukro from 27 February to 22 March. It also met with the Chief of Staff of FANCI, General Dary and General Beth of the French Licorne forces, representatives of the diplomatic community, a cross-section of civil society, and my Special Representative and the United Nations country team.

28. The team concluded that the establishment of an international commission of inquiry was widely supported by most interlocutors, including the Government of National Reconciliation and United Nations bodies, such as the Committee on the Elimination of Racial Discrimination. My Special Representative, in consultation

with the High Commissioner for Human Rights, will advise on the next steps when conditions on the ground permit the launching of the commission.

29. A senior human rights adviser and a small team of human rights officers, including a gender specialist and child protection officers, have been assigned to MINUCI. The Mission's activities relating to human rights will be primarily to facilitate and provide assistance in the implementation of the human rights-related provisions of the Linas-Marcoussis Agreement, as well as to monitor and report on the situation of human rights in Côte d'Ivoire, with specific attention to the rights of women and children, including child combatants.

30. Earlier in February 2003, OHCHR fielded a senior human rights officer to assist the United Nations country team. OHCHR, UNDP and the MINUCI human rights officers will continue to assist the Government in the establishment of an independent National Human Rights Commission and in the development of a National Human Rights Action Plan.

31. UNDP has commenced implementation of the ABRIS programme which is intended to provide targeted humanitarian assistance to affected communities in order to create conditions for post-conflict economic recovery. The programme applies a human rights framework that ensures that special conditions are created to protect vulnerable groups, guarantee transparency and promote respect for all stakeholders in a discrimination-free context. These concepts were operationalized in a training package aimed at three test groups. Training was conducted in Yamoussoukro and Bouaflé in June 2003, and included local government authorities, development support agencies and territorial administrative authorities. Late in June, 10 young human rights activists were trained and a session was organized for some 40 journalists and other media personnel from 23 to 25 July. Another training package will be provided to 40 human rights defenders and members of non-governmental and civil-service organizations in August in Bouaké.

32. The United Nations country team has also established a sectoral group on protection, open to participation by all United Nations agencies and non-governmental organizations and other civil society organizations. With a view to ensuring better protection for victims of human rights violations, the group has focused on issues of access, the illegal destruction of shanty towns, the elimination of discriminatory violence, hate media, and emphasizing the civilian status of camps for refugees and the internally displaced. Under the leadership of the country team's senior human rights adviser, the group developed a strategy document on protection, and contributed to the formulation of a code of conduct for humanitarian action.

VII. Public information and media issues

33. Since the formation of the Government of National Reconciliation in March 2003, the press has closely examined its role and acknowledged its responsibility in aggravating tensions as "partisan, petty and subservient to political parties which are at the same time their sponsors and their partners".

34. Several significant facts and initiatives have shown that the press as a whole and the State media, in particular, have fallen, willingly or reluctantly, into line with the reconciliation and peace process. Measures taken by the press include the creation of an Association of Journalists for Peace and Reconciliation following a

seminar organized by the International Media Action, the Office for the Coordination of Humanitarian Affairs, the United Nations Educational, Scientific and Cultural Organization and UNDP. The seminar was attended by all journalists from the south and the north of the country.

35. Following the incident at the premises of Radio Télévision ivoirienne, where there was an attempt on the life of the Minister for Communications, the new Interim Director-General and Interim Secretary-General pledged, during the hand-over ceremony, to guarantee the impartiality and objectivity of the press and to turn RTI into an active instrument that would broadcast messages of peace and reconciliation. The Government has also decided to strengthen the powers of the Observatoire de la liberté de la presse, de l'éthique et de la déontologie (OLPED), as the watchdog of the media, by authorizing it to sanction all articles that tend to provoke hatred or division and aggravate tensions.

36. Despite resistance, the Government should be able to adopt a press law, which would make it possible to set up a new legal framework to make the press move away from its financial dependence on political parties. This process will take time, since the forthcoming election period will certainly revive opposition and political wrangling.

VIII. Humanitarian aspects

37. The humanitarian situation in Côte d'Ivoire remains worrisome. Half a million people, mainly Burkinabè, Malians and Guinean migrant workers, have fled Côte d'Ivoire, either by their own means or with the support of their embassies, as a result of xenophobia and ethnic tensions. In addition, an estimated 800,000 people are internally displaced. Many children have been separated from their families and several hundreds recruited by all sides of the conflict. The breakdown of basic social services in areas outside government control has led to a desperate situation in the north and the west.

38. The situation of Liberian refugees in the western part of the country remains precarious. Of the 87,000 Liberian refugees who stayed in western Côte d'Ivoire in the *zone d'accueil des réfugiés* in 2002, only 36,800 have remained in the country. The only refugee camp in Côte d'Ivoire, Niela Camp, currently hosts about 4,000 Liberian refugees. Many refugees had returned to Liberia despite the deteriorating situation there. Meanwhile, the recent escalation of the conflict in Liberia has led to a new exodus of more than 33,000 Liberians across the border into south-western Côte d'Ivoire. Hostility towards those who have remained or those who have recently arrived continues, because of the perceived involvement of armed Liberian elements in the Côte d'Ivoire conflict.

39. The International Organization for Migration has assisted the voluntary repatriation of over 1,000 foreign nationals from south-western Côte d'Ivoire since mid-July, and almost half of the 8,500 mostly Burkinabè migrant workers, who are accommodated in four transit centres in the western town of Guiglo, have registered for voluntary repatriation. Furthermore, UNICEF and some non-governmental organizations have been advocating with military entities against the use of child soldiers. Save the Children, the International Committee of the Red Cross (ICRC) and others are actively identifying children separated from their families or unaccompanied, including ex-combatants, throughout the country.

40. Food security has become noticeably precarious in the north and the west. In the north, the de facto partitioning of the country has seriously affected the economic situation and, thus, the nutritional status of the population. Owing to the violence, displacement and lack of access to land over the past months, households have been forced to consume their seed stocks, thus jeopardizing production in the next planting season. As 68 per cent of women work in the area of agriculture, they and their households are particularly affected. Moreover, the large number of internally displaced persons is negatively affecting the food security of host communities, as some 80 per cent of the internally displaced are currently living with host families. Over 3,000 malnourished children have been identified and treated to date by Médecins sans Frontières (MSF) and Merlin in the west. The World Food Programme (WFP) and the Food and Agriculture Organization of the United Nations urgently require funding to provide seeds and tools to some 10,000 small farmers in the west. WFP, in close collaboration with all partners involved, will establish a food security monitoring system to better target, track and plan interventions.

41. The governmental and administrative structures that supported the health-care system have completely receded in the north and west by virtue of the country's partition. Over 80 per cent of health personnel in that part of the country have abandoned their posts and 70 per cent of health infrastructures are closed. An array of non-governmental organizations, including Médecins du Monde, MSF, Merlin, ICRC and the Ivorian Red Cross, have been providing health care and support to medical facilities in the west and north. While the United Nations and international non-governmental organizations and ICRC partners currently attempt to fill the vacuum of the collapsed system through limited primary and secondary interventions, essential programmes such as reproductive health, family planning and vaccination programmes are unavailable to the population. Fortunately, immunization and vaccination programmes, particularly for measles, formerly run by the international non-governmental organizations, will now be reactivated by the authorities in charge, with the support of UNICEF and the World Health Organization.

42. More than 1 million primary school children have had their school year disrupted by the conflict. In Government-controlled areas, schools continue to function, and over 60,000 internally displaced children are attending supplementary schools established to receive the overflow. In northern zones, schools have been officially closed because of insecurity, although unofficial education activities have continued in many areas, including activities supported by religious organizations and civic groups, as well as UNICEF through the School for All programme and WFP through school canteen programmes. The Ministry of Education has recently annulled its decision to declare the school year null and void for zones formerly under rebel control. An evaluation system is being elaborated to determine which students will have their school year validated, and make-up courses are envisioned for the summer.

43. Overall coordination of international humanitarian activities is carried out through the Secretary-General's Humanitarian Envoy for the Crisis in Côte d'Ivoire, Carolyn McAskie. An Inter-Agency Humanitarian Coordination Committee was established in February 2003, pending the appointment of a Humanitarian Coordinator for Côte d'Ivoire, so as to ensure complementarity of humanitarian operations. The Inter-Agency Committee has drafted a strategy for assistance to

internally displaced persons, which will be submitted for consideration to the newly established Inter-Ministry Humanitarian Coordination Committee. The Inter-Agency Committee will work closely with this new committee to improve cooperation and coordination between the humanitarian community and government ministries. The humanitarian community is battling a lack of resources in its attempt to address the overwhelming needs of returning displaced populations and the rehabilitation of communities. The Inter-Agency Consolidated Appeal for Côte d'Ivoire and the five most affected neighbours, which was launched on 29 April 2003, has received only 20 per cent of the total requirements of \$91 million.

IX. Economic and social recovery

44. Côte d'Ivoire continues to face a severe economic and social crisis, which has had adverse repercussions on the entire West African subregion. The neighbouring countries Burkina Faso, Guinea, Mali and the Niger, which are heavily dependent on Côte d'Ivoire's transport facilities for imports and exports, and on remittances from their migrant nationals, have been the worst affected by the Ivorian crisis.

45. The optimistic projections of 3 per cent growth in 2002 for Côte d'Ivoire's economy have been revised downwards, to -1.2 per cent. The primary sector has witnessed the smallest contraction (0.9 per cent), while the secondary and tertiary sectors have been the most affected, with contractions of 3.8 and 5.3 per cent, respectively. In the agricultural sector, the production and marketing of cotton, sugar cane, tobacco and cashew nuts have been seriously eroded. Private sector activity is in a deep depression, and the country's business risk rating has deteriorated drastically. The hotel industry continues to experience operational losses and, according to the National Federation of Industries and Services, activities have dropped by 25 to 100 per cent since September 2002.

46. For the year 2002, Government revenues reached 1,517.8 billion CFA francs against projections of 1,473 billion CFA francs and reflected an improvement in fiscal and non-fiscal revenues. However, increases in public expenditures, in particular military expenditures to support the war effort, resulted in an overall treasury deficit of 91.8 billion CFA francs.

47. Trade with the rest of the world has been negatively affected by the freezing of credit lines and by the disruption and interruption of port facilities. Despite the unfavourable economic trends reported above, however, the country has witnessed an improvement in the external trade balance, essentially owing to substantial increases in prices of export products combined with a reduction in the value of imports. Overall, in spite of a negative balance of the services account, the current account stood at a positive balance of 532.7 billion CFA francs.

48. At the monetary level, the crisis in the country has provoked a tightening and curtailment of public bank lending. Bank branches in the interior and in the war zones have closed and lending operations are being directed towards other countries of the West African Economic and Monetary Union. Prices of basic commodities have risen, and there is a shortage of products originating from the war zones.

49. Meanwhile, there has been a sharp decline in the flow of external resources to Côte d'Ivoire since the outbreak of the fighting. Support from the enhanced Heavily Indebted Poor Countries Initiative stood at 225 billion CFA francs by the end of

2002. The International Monetary Fund (IMF) and the World Bank have put on hold disbursements of the second tranche of the Poverty Reduction and Growth Facility and the second tranche of the economic recovery credit. Côte d'Ivoire, however, has continued to respect its debt obligations towards IMF and the World Bank.

50. At the end of June 2003, the World Bank and IMF dispatched an evaluation mission to Côte d'Ivoire to review the country's macroeconomic performance over the past year, the perspectives in terms of the socio-economic recovery and the resumption of their respective cooperation programmes. While the findings of the mission have not yet been released, it constitutes the first step towards a multi-donor assessment and programming mission planned later in the year.

51. The recent visit of the Prime Minister to Europe and North America is part of the Government's strategy to mobilize the partnerships and resources needed to support the implementation of the national reconstruction programme that it intends to finalize in the coming months. The European Commission has already adopted an immediate post-crisis rehabilitation programme of €30 million (national reconciliation, disarmament, demobilization and reintegration, economic and social rehabilitation for internally displaced persons) for Côte d'Ivoire.

52. The Government is also considering additional fiscal and non-fiscal measures intended to boost private sector performance and put the country on the road to social and economic recovery.

X. Financial aspects

53. Pursuant to Security Council resolution 1479 (2003), I have obtained from the Advisory Committee on Administrative and Budgetary Questions commitment authority in the amount of \$14 million to meet the cost of the most essential and immediate start-up requirements of MINUCI for the period from 13 May to 31 December 2003. The proposed budget for MINUCI is under preparation and will take full account of the Mission's resource requirements for the period from 13 May 2003 to 30 June 2004. I shall request the General Assembly to take action on the budget during the main part of its fifty-eighth session. As at 30 June 2003, the total outstanding assessed contributions for all peacekeeping operations amounted to \$1,108.6 million.

XI. Observations

54. The Ivorian peace process has made encouraging progress in the six months that have passed since the signing of the Linas-Marcoussis Agreement. In particular, the installation of the Government of National Reconciliation, the preparation of the Government's work programme, the confidence-building steps that have been taken by FANCI and the Forces nouvelles, the adoption of an amnesty law, the development of a disarmament, demobilization and reintegration programme, and the extension of the ceasefire line to the hitherto inaccessible western part of the country have laid a good basis for further progress towards the full implementation of the Marcoussis Agreement, which should lead to the final goal of holding free and fair elections in October 2005.

55. Considering the delicate issues that need to be addressed, as indicated in the Government's programme of work, the preparations for those elections must begin early. The United Nations stands ready to provide appropriate support in the organization and conduct of the elections, should the Government of National Reconciliation request such support. It will also be necessary for other international partners to extend assistance to Côte d'Ivoire in the preparations for the elections.

56. The road ahead is long, and the peace process is fraught with pitfalls and contradictions that have to be surmounted. The hostilities between FANCI and the Forces nouvelles have ended, but peace is not yet at hand. Although the Government of National Reconciliation is functioning, it remains incomplete and often works in disharmony. The Government has taken significant steps towards implementing the Marcoussis Agreement, but all parties have yet to demonstrate their full commitment to the Agreement.

57. These contradictions must be resolved, in order to create a climate conducive to a constructive discussion by the National Assembly of the crucial issues presented in the Government's work programme. In this regard, I appeal to the Ivorian parties to make the concessions necessary to end the impasse over the appointments to the still vacant portfolios of Defence, the Interior, and Women's, Children's and Family Affairs. I also urge the FPI party and the Ivorian law enforcement authorities to curb the activities of militias, thuggish groups and individuals who seek to undermine the peace process. FANCI should consider a moratorium on purchasing new weapons, while the National Assembly should pursue the efforts to adopt new legislation aimed at ensuring a more independent and responsible press.

58. For their part, the Forces nouvelles must end the de facto partitioning of the country and cooperate with the efforts of the Government of National Reconciliation to extend State authority throughout the territory of Côte d'Ivoire. The continuing control of the northern part of the country by commanders of the Forces nouvelles seriously constrains the Government's ability to extend its authority and hampers the process of national reconciliation, as well as the free movement of people, goods and services in the country. Now that they are part of the new Government, the Forces nouvelles cannot continue to run a parallel administration in the northern part of the country. I also urge the Forces nouvelles to adhere to the timetable for disarmament set out by the Government of National Reconciliation and to continue their confidence-building dialogue with FANCI.

59. The presence of the Licorne and ECOWAS forces remains indispensable if the prevailing, albeit fragile, stability is to be sustained. I commend those forces for their excellent work under difficult conditions and with limited resources. At the same time, I am deeply concerned about the financial difficulties that the ECOWAS forces continue to face. Particularly worrisome are the indications that, unless they receive the necessary funding, the ECOWAS forces may not be able to perform the functions assigned to them under the disarmament, demobilization and reintegration programme. The lack of adequate funding may also jeopardize the operations to sustain stability in the sensitive border areas, for which the ECOWAS force requires additional troops. I therefore wish to appeal to Member States to provide the requisite financial assistance to these forces on an urgent basis.

60. The deployment of the military and civilian personnel of MINUCI continues to make satisfactory progress, and the Mission is engaged in important monitoring and liaison activities that complement the peacekeeping operations of the Licorne and

ECOWAS forces. The Mission is also coordinating the activities of the Monitoring Committee and performing monitoring activities with respect to the human rights situation and the media, and is preparing to assist in the implementation of the disarmament, demobilization and reintegration programme.

61. The critical humanitarian crisis created by the conflict and the dislocation of Côte d'Ivoire's economy continue to present serious challenges. While the international community is committed to assisting the country in addressing those challenges, the onus remains on the Government and on all Ivorian parties to take the necessary measures to create a security climate conducive to the safe delivery of humanitarian assistance, and to restore the confidence of its partners in its economic recovery and development programme.

62. I wish to commend the efforts of the Government of National Reconciliation to improve relations with its neighbours and to restore trade links with Burkina Faso and Mali. However, I remain concerned about the existence of armed Liberian elements that are reportedly still operating in some areas of western Côte d'Ivoire. These elements constitute an immediate and a long-term threat to the efforts to stabilize both Côte d'Ivoire and Liberia. I nevertheless feel greatly encouraged about the ongoing efforts of ECOWAS and the Security Council to resolve the conflict in Liberia, which has been the primary source of instability in the subregion. I believe that the ongoing efforts to launch a multinational force and, subsequently, a peacekeeping operation in Liberia will open up possibilities for addressing cross-cutting regional issues, such as the use of child soldiers and mercenaries, and the exploitation of national resources to fuel conflicts. Pursuant to the request of the Security Council in its presidential statement of 25 July (S/PRST/2003/11), I have asked my Special Representative for West Africa to conduct a comprehensive study on these issues in close consultation with my Special Representatives in Côte d'Ivoire, Liberia and Sierra Leone, as well as other partners, which would enable me to submit recommendations to the Council on how they could be addressed through enhanced coordination among the United Nations operations in the subregion.

63. In conclusion, I wish to express my appreciation to the Security Council and to ECOWAS and donor countries for their continued support to MINUCI. I also commend my Special Representative, Albert Tevoedjre, all MINUCI civilian and military personnel and other United Nations agencies, as well as other humanitarian and development partners, for their efforts in supporting the peace process and in addressing the humanitarian crisis in Côte d'Ivoire during the reporting period.

Annex

**United Nations Mission in Côte d'Ivoire: contributions as at
13 August 2003**

Authorized military strength: 76 military liaison officers

<i>Country</i>	<i>Military liaison officers</i>	<i>Total</i>
Austria	1	1
Bangladesh	2	2
Benin	2	2
Ghana	1	1
Jordan	2	2
India	1	1
Ireland	2	2
Kenya	1	1
Nepal	1	1
Niger	1	1
Nigeria	2	2
Pakistan	1	1
Paraguay	2	2
Poland	1	1
Republic of Moldova	1	1
Romania	1	1
Senegal	2	2
Tunisia	1	1
Uruguay	1	1
Total	26	26

Chief Military Liaison Officer: Bangladesh

S/2003/801

Romania¹

IHF FOCUS: freedom of expression and access to information; judicial system and detainees' rights; law enforcement and police misconduct; conditions in prisons and detention facilities; national and ethnic minorities and discrimination.

According to APADOR-CH (Romanian Helsinki Committee, IHF member), 2002 brought no substantial progress in the field of civil rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and Additional Protocols and interpreted by the European Court of Human Rights in Strasbourg. The main human rights problems were related to freedom of expression (particularly insult, libel, offense against authority and "verbal outrage") which were prosecuted under criminal law and provided even for a prison sentence. Public officials enjoyed a wider scale of protection than ordinary people.

Newly adopted or pending legislation (for example, the draft Criminal Procedure Code), gave rise to human rights concerns. Moreover, the unpredictable manner with which parliament dealt with these laws and secrecy surrounding their adoption made it extremely difficult for civil society groups to act in an expert or advisory role. Several provisions of the draft Criminal Procedure Code are not in line with international human rights standards.

The demilitarization of the police force was a long-awaited positive development, which, however, so far has turned out to be insufficient to genuinely transform policing. Numerous cases of police misconduct were reported, including cases that resulted in death. Although some improvements were observed in prison conditions, serious problems, particularly overcrowding, remained.

During 2002, the debate on the need for a law on national minorities was reopened. A National Council for Combating Discrimination (CNCD) was finally established after nearly two years of delay. Having begun work in mid-2002, due to legal amendments, the CNCD soon became a virtual governmental body.

APADOR-CH's lawyers have been involved in more than 15 applications with the European Court. All of them were pending as of the end of 2002. Some were already communicated to the Romanian government and the association's lawyers commented on government responses. The applications relate to police brutality, unfair trial, violations of the freedom of expression, and breaches of the right to privacy and property. The latter concerned the failure of the Greek Catholic Church in Romania to recover its properties nationalized under the communist regime.

Freedom of Expression and Access to Information

Emergency Ordinance No. 58/2002

In Romania, individuals could still be prosecuted under the Criminal Code for exercising the right to justified criticism. In the most serious cases, such criticism could be punished by imprisonment. Emergency Ordinance No. 58 of May 23 on the modification of provisions in the

¹ Based on information from APADOR-CH (Romanian Helsinki Committee) to the IHF.

Criminal Code and Criminal Procedure Code refocused attention on the problems raised by articles 205 (insult), 206 (libel), 238 (offence against authority) and 239(1) (verbal outrage). The modifications included in the ordinance were considered insufficient by APADOR-CH.

APADOR-CH initiated a joint protest with 15 other NGOs, stating that the changes were merely cosmetic (except for article 238, which was repealed) and calling for more extensive improvements.² Regarding article 205 on insult, only the provision for a prison term was eliminated, but criminal fines were retained, meaning the offence still brought about criminal indictment, and a criminal record. As for article 206 on libel, the ordinance retained the alternative punishments of a prison term or criminal fines, despite reducing the terms of imprisonment from maximum three years to two years.

The Emergency Ordinance did not deal at all with article 207, which required the person accused of insult/libel to prove that what he/she wrote was true. In democratic states the main defenses for those accused of insult or libel are good faith, public interest and, less often, the proof of truth, but only as an alternative to the first two methods, and only if the defendant chooses to so defend the case. Moreover, in a democratic legal system, the prosecution as a rule has to prove the guilt of the defendant.

Articles 205 and 206 should have been eliminated from the Criminal Code. Issues of insult and libel should be exclusively regarded as civil cases. Also, penalties should be carefully balanced so that pecuniary damages are not the main compensation for moral prejudice. Should the offence of libel not be repealed, APADOR-CH called for the possibility of imprisonment to be eliminated. "Maintaining such a serious sanction for expressing an opinion is a form of censorship which discourages journalists and hinders freedom of expression," it said.

Insult, Libel, and Threat against Civil Servants

Under article 238 (offence against authority), many persons in high public positions and civil servants enjoyed special protection against insult and libel. Although article 238 was repealed in 2002, Emergency Ordinance No. 58 retained in a slightly modified form article 239(1), providing for tougher sentences for insult and libel against a wide category of civil servants, including all those in high positions implying the exercise of state authority. Therefore, the respective category of "civil servants" still benefited from additional protection compared to ordinary citizens. The principle of equality thus continued to be violated.

APADOR-CH and other NGOs demanded that article 205 (insult) and 206 (libel) be eliminated, or, regarding article 206, the provision for prison terms be eliminated. If libel continues to be treated as a criminal offense, then article 207 should be modified by introducing the proof of good faith and public interest, alongside or alternately with the proof of truth. Article 239(1) should be abolished in order to make civil servants use the common law provisions, as any other person who believes themselves the victims of insult or libel.

The Chamber of Deputies adopted the Emergency Ordinance as submitted by the government. In September, the Senate passed the same version with only two minor amendments,

² At the beginning of 2003, the Ministry of Justice proposed a new draft bill of the Penal Code. Among many innovations, it introduces - for a number of crimes and offences, including the defamation provisions - an entirely new sanction which is a "per diem penal fine." This and other provisions from the new draft triggered very critical reaction from APADOR-CH and other NGOs. As of writing this report, the draft bill was still under public debate.

limiting the maximum prison term for libel to six months and introducing fines for article 239(1). However, in October, the Romanian president refused to promulgate the law and returned it to the parliament, noting that he disapproved of prison terms for journalists. By the end of 2002, parliament had yet to reopen the debate on the draft bill.

The Law on Classified Information No. 182/2002

The law on classified information was initially adopted in 2001 but the Constitutional Court declared the law unconstitutional (on grounds of the passing procedure, without referring to its content).

In February 2002, a group of seven NGOs, including APADOR-CH, drew up and published a set of principles and concrete amendments to the draft bill. They noted that not all information regarding national security and defense should be classified, as the draft law provided. Further, they noted that the lists of categories of secrets should be made public in the name of transparency and to allow citizens to adapt their behavior to legal requirements.

The NGOs proposed that the categories of secrets should be re-examined on a regular basis (every two years, for example), a fact that was not taken into consideration in the draft, and that declassified information should be made public, another issue the bill failed to specify.

Moreover, the notion of public interest was absent in the draft bill. It thus failed to recognize that public interest in publicizing certain information may prevail over the authorities' wish to render such information secret.

Further, secret professional information should not be regulated by law. Therefore the wording of the bill, which demanded authorities and public administration to list their professional secrets, was unacceptable. The NGOs stated that there can be no secret professional information in public institutions which are not connected to national security.

The draft bill should not include vague formulations giving the law an arbitrary nature. For example, the Law No. 23/1971 not only listed state secrets but also added that others factors "of a nature such as to..." could be covered by the law as threats to national security or to other values the state wishes to protect without being specified.

Neither the Chamber of Deputies nor the Senate took any of these observations into account. With a few minor improvements, the law was passed and promulgated on April 12.³

In addition, in June, the government adopted the application norms for Law No. 182. Extremely numerous and lengthy, the norms were applied to both state and professional secrets. APADOR-CH considered that Law No. 182 contained provisions contravening both the Constitution and European norms and constituted a real threat to free access to public information.

Access to Public Information (the Application of Law No. 544/2001)

Law No. 544 on free access to public information came into effect at the end of December 2001, and its application norms on March 8, 2002. APADOR-CH regarded the law as

³ For details, see chapter 5 of *The Limitation of Access to Information in Romanian Legislation*, a report published by APADOR-CH on its Internet site, www.apador.org

an important instrument in the fight against corruption and to ensure the transparency of activities of public institutions and authorities. During 2002, APADOR-CH closely examined both the theoretical and practical aspects of the law.

Under Law No. 544, authorities, public institutions and autonomous administration companies who used public funds were obliged to make available, *ex officio*, information, for example, on their legal status, funding sources, budget, balance sheets and structure, and to answer questions regarding other aspects of their activity.

Members of APADOR-CH sent, in their own name, requests for information to several public authorities, institutions and companies. Five of ten applications were either rejected or ignored. As a result, the petitioners filed suits at the Bucharest Administrative Tribunal. As of the end of 2002, only one suit had been concluded (*M.S. v. CNAS*, or the National Health Insurance Fund), with the plaintiff winning in the first instance but losing before the Court of Appeal.

At the same time, APADOR-CH – as a legal person – submitted four petitions to the Romanian Intelligence Service (SRI), the General Prosecutor's Office, the Supreme Court of Justice, the Finance Ministry and the Interior Ministry. The first three were rejected after administrative complaint. APADOR-CH then filed suits at the Bucharest Administrative Tribunal which ruled in the cases against the Ministry of Finance and the Prosecutor General in favor of the plaintiff. Other cases were pending at the end of 2002.

The tests carried out by APADOR-CH led to practical guidelines being drawn up about how to make use of Law No. 544.⁴ The guide clarifies the procedures to be followed in order to obtain public information, lists the main obstacles and suggests possible solutions.

Judicial System and Detainees' Rights

The Criminal Procedure Code

Due to the large number of legal proposals submitted in an unpredictable way by the government or MPs to either the Chamber of Deputies or the Senate, it was almost impossible for civil society representatives to react in due time to certain draft bills which may represent a threat to human rights. Many draft bills were also withdrawn and submitted later again in modified form. One such example was the draft Criminal Procedure Code. Moreover, committee sessions, where final versions of draft bills were actually decided, were generally held behind closed doors.

Concerning the draft Criminal Procedure Code, APADOR-CH raised the following concerns, among others: the draft code eliminates the subordination of civil actions to the course and result of criminal trials (articles 19.2-3, 20 and 22 of the present code), and reduces (and finally eliminates) the competence of military courts. It fails to specify that court decisions are necessary for surveillance. Further, it fails to prescribe that only courts (not a prosecutor) can issue arrest warrants and that a court should also decide (within 48 hours) whether to indict or not (on the basis of the old code, the prosecutor was in charge of pressing charges, without any control by the judge). The draft code also fails to abolish questionable reasons for arrest such as arrests in order to establish a suspect's identity or residency; if the suspect is a repeated offender;

⁴ The full version was published in *Adevarul* newspaper on October 30, 2002, and may also be viewed at www.apador.org

if there is any danger the suspect may alter evidence or influence witnesses; or if the alleged crime carries a sanction of over two years in prison and represents a public threat.

Law Enforcement and Police Misconduct

The long-awaited demilitarization of the police force took place in 2002. On the basis of Law No. 218 of April 19 on the "Organization and Functioning of Romanian Police" and Law No. 360 of June 4 on the "Status of the Police Officer", the police force was defined as a "specialized public service", while "the police officer is a civil servant with special status."

Despite the groundbreaking reform, Law No. 218 contained provisions which were also a cause for concern. It provided for the demilitarization of the police force, but not for decentralization. Even if County Police Inspectorates became legal persons, the General Police Inspectorate (IGP) still had overall control over policing.

The law provided for a National Body of Police Officers, which appeared to be a mandatory union controlled by the IGP administration, contradicting the idea of a union as a form of voluntary association aimed at promoting the rights of police officers. Further, the law established the Territorial Authority for Law Enforcement, which was supposed to exercise civilian control over the police but was ineffective because of its merely advisory role.

Moreover, the law still provided for the problematic measure of "taking a person to the police station" for up to 24 hours, which was separate from, and in addition to the measure of "retaining for 24 hours" (explicitly regulated by the Constitution and the criminal law). The new law only called it an "administrative measure" and therefore did not imply deprivation of freedom. While the Constitutional Court ruled that "taking a person to the police station" was constitutional,⁵ APADOR-CH maintained that this measure constituted a form of deprivation of freedom which was not clearly regulated by law, depriving the person of all legal rights.

The crucial problem of the use of firearms grew. Provisions of Law No. 17/1996 on the Status of Weapons and Ammunition provided for ten situations (against only five in the old Police Law) when police officers may use firearms. While article 34(4) (use of means of restraint other than firearms) brought forth the notion of proportionality during police action, article 34 on the use of weapons and firearms did not make any such mention, suggesting that the "proportionality" principle did not apply to the use of firearms. Moreover, paragraph 3 guaranteed police officers immunity from criminal responsibility when using firearms "in order to fulfill police duties, under the conditions and obligations provided by the law." APADOR-CH feared that as a result of this provision, police officers will continue to use firearms against petty crime suspects without any fear of being held accountable for their actions.

The problem related to police controls and raids also remained unresolved. Police actions involving a large number of police officers and/or gendarmes and often involving the use of force (including firearms) may take place "whenever there is solid evidence of a criminal offense or of

⁵ On December 18, 2002, the UN General Assembly adopted the text of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishments. Romania has already signed the document. The document defines "deprivation of freedom" as follows: Article 4(2): "... deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which this person is not permitted to leave at will by order of any judicial, administrative or other authority."

concealing a perpetrator..." (article 31.g). APADOR-CH has constantly stressed that, for example, raids should always be supervised by the Prosecutor's Office, warrants should be issued, and that locations to be raided should be clearly identified and limited.

In a positive development, for the first time in almost ten years since APADOR-CH began monitoring police-related activities, the NGO was invited in June to a hearing of the Senate's Human Rights Committee to present cases of police misconduct it had looked into. Regrettably, the committee later claimed in a press statement that some of the cases indicated by APADOR-CH were untrue.

- On January 18, Mugur Ciuvica, alleged author of a report published on the internet under the name of *Armageddon II*, was arrested by the police and taken, without a warrant, to the headquarters of the general prosecutor, where he was interrogated for several hours. Police also searched the homes of Ciuvica's girlfriend and mother. In addition, Ovidiu Iane was arrested for posting *Armageddon II* on the internet and for some irregularities related to his small computing business. Both men were charged under article 168/1 of the Criminal Code (spreading information that is false or can endanger state security or Romania's international relations), which carried a prison sentence of between one and five years. The publication focused on alleged relations between the prime minister and persons of dubious reputation and on his considerable wealth, all information that had already been published by the media. Human rights organizations considered the accusations to be baseless. Both men were released (Iane three days later) after some days in detention and several months later the charges were dropped. Ciuvica, his girlfriend and mother filed a complaint with the General Prosecutor's Office against the prosecutors who had led the investigation and against the police officers who had arrested them and searched their homes. No reply had been received by the end of 2002.

Several cases of death resulting from police activities were also reported.

- Mihai Iorga (32) had been fined for disturbing the public order, but was later imprisoned after being unable to pay the fine. On March 12, Iorga was arrested by the police and put into custody in Ploiesti to be transferred to a penitentiary the following day. After losing all contact to him for several days, Iorga's family learned – from villagers, not from representatives of the police – that Iorga had died on March 21 at Floreasca Hospital in Bucharest. Ploiesti police insisted that Iorga had died as a result of severe beating by fellow inmates. The military prosecutor in Ploiesti summarily decided not to bring charges against the police officers and a medical doctor responsible for detainees in Ploiesti. APADOR-CH concluded that this decision violated article 29 of Law No. 26/1994, according to which police officers are responsible for the physical and mental well-being of persons in custody (including protecting them from other detainees), and the Criminal Code, which provided for a prison term of between two and ten years for "very serious consequences" of negligence. Further, APADOR-CH noted that witnesses at the police station had either not been interviewed or had their testimony disregarded. Moreover, Iorga's brother learned that both police and fellow inmates had put Iorga under pressure to admit to having committed a number of unsolved crimes. The case was pending as of the end of 2002.
- On April 5, police officers in Tg. Carbunesti arrested Nelu Balasoiu (18) and two minors for stealing a car wheel. The three were taken into custody. On May 14, Balasoiu was taken from custody to the Tg. Jiu Penitentiary and on June 4 to the Jilava Penitentiary Hospital, with the diagnosis of pleurisy and renal failure. He died the following day.

APADOR-CH's investigations revealed that Balasoiu's kidneys had apparently been crushed while the victim was in custody at Carbunesti. This conclusion was confirmed by several witnesses. APADOR-CH asked the Military Prosecutor's Office to investigate the detainees' treatment as a case of torture and held that the chief of Carbunesti was guilty of complicity in torture. The case was pending at the end of 2002.

- Ion Baiera was shot by arresting officers of the police (following a conviction for robbery) in Buda village, Osesti municipality on October 11. After Baiera refused to be handcuffed, the officers sprayed stun gas over him in a tiny room where two children were present. In full view and in the vicinity of several persons, including children, the police officers shot at him each time he tried to leave the room, in total eight times, also endangering the lives of other people. The officers claimed that six shots were warnings, but this was contradicted by witness statements. Ion Baiera was certified dead on arrival at hospital.

Conditions in Prisons and Detention Facilities

APADOR-CH was able to continue its prison monitoring program throughout 2002 due to, among other things, good cooperation with the General Directorate of Penitentiaries (DGP). During the year, its representatives visited 12 penitentiaries.

In July, the Ministry of Justice issued three orders regarding the right to receive visits, parcels, cigarettes and consumer goods, the reduction of sentences for working prisoners, and the semi-open detention regime.

However, the Romanian parliament failed to pass a new law on the enforcement of punishments by deprivation of freedom and on the status of the penitentiary staff, who were still under military control.

On the basis of its monitoring activities, APADOR-CH concluded that the most serious problems in penitentiaries remained the same as in previous years: overcrowding, inadequate hygienic conditions and health care, too little contact with the outside world, disciplinary measures, and leisure activities.

In the prison of Bacau, overcrowding ran at 330% of the designated capacity. Most other prisons (Tg. Jiu, Ploiesti, Codlea, Vaslui, etc.) visited by the association had average overcrowding rates of 200%.

As a result of overcrowding, it was impossible to separate detainees according to the criteria provided by both domestic legislation and international treaties ratified by Romania: for example, at Ploiesti, pre-trial detainees shared cells with convicted criminals.

In addition, staff:detainee ratios were affected by overcrowding. While according to the European standards one staff member should be responsible for no more than eight to ten inmates, at Ploiesti the ratio was 1:15 or more.

Understaffing of medical personnel was becoming a chronic problem in the whole penitentiary system. Although the existing staff generally attempted to provide acceptable care to detainees, current conditions made this difficult. During 2002, doctors in all penitentiaries continued to treat prison staff too, leaving them with too little time to treat prisoners. For

example, in Tg. Jiu, two doctors who should have devoted their entire time to the 1,300 detainees spent between one and five hours per day attending prison staff, their families and the staff of the local court and Prosecutor's Office (around 250 people). In many cases, prison physicians had 70-80 or even more consultations and treatments during a seven-hour daily shift.

Although the hygiene and sanitary conditions in penitentiaries were generally acceptable, there were still units where the cells were infested with cockroaches, mice or lice (e.g. in Vaslui, Codlea, Tg. Jiu and Bacau).

A scabies epidemic broke out at the Codlea Penitentiary during August and September. At the beginning of August, there were seven serious cases of scabies among the detainees, with secondary infections. The disease continued to spread and there were another 25 cases by the end of September. APADOR-CH noted that epidemics like this could be clearly related to poor hygiene and sanitation.

The quality of food appeared to have improved somewhat from previous years (particularly in the penitentiaries of Giurgiu, Margineni, Botosani, and especially the penitentiary hospital in Dej) but the absence or low quantity of meat remained the main problem. In most of the cases "meat" meant by-products, mainly lard. In this respect, the situation was worst in Galati.

On a positive note, detainees' correspondence was not censored or restricted and its confidentiality was guaranteed. Although telephone calls were, according to the Romanian Constitution, equivalent to written correspondence – and therefore should have been subject to the same regime – this was not the case for the great majority of penitentiaries in 2002. In some penitentiaries, inmates were allowed to make one phone call every week (for example in Tg. Jiu), while in others they were able to use the phone only once or twice a month. A special situation was encountered in Bacau, where detainees were allowed to make phone calls only from the 28th to the 31st day of each month, and only between 9 A.M. and 1 P.M. and between 3 P.M. and 6 P.M. The penitentiary management argued that other days were visiting days.

The rules for investigating complaints and sanctioning detainees were generally observed. The only problem was that in some penitentiaries (Bacau, Rahova and Codlea, for instance) discipline committees failed to hear all the detainees against whom disciplinary procedures had been launched, especially if lenient punishments were expected.

Although the number of complaints by inmates about staff behavior was relatively low, there were still suggestions that some prison staff were perpetrating abuses. For example, in one case at Ploiesti, a warden had hit an inmate with a club, in another case a non-commissioned officer at the Codlea Penitentiary was accused of abusing several detainees.

Sometimes prison staff failed to provide adequate protection to inmates against violence by fellow prisoners. In one case, an inmate sentenced for sexual abuse of a child was killed by a fellow prisoner soon after being placed in a cell with other convicts. In another case, two detainees also indicted for pedophilia were violently assaulted by cellmates. In the latter case, the staff intervened promptly.

The situation regarding leisure activities was far from desirable, largely as a result of overcrowding and lack of prison personnel. Inmates in virtually all Romanian prisons spent 24 hours per day in their cells, year on year. The situation was detrimental to the physical, mental and intellectual health of those imprisoned. Open air activity was in general shorter in duration than recommended by the international norms ratified by the Romanian state (both the UN and

European standards provide for "at least one hour per day"). Despite overcrowding – a major hindrance – better planning of activities could improve the situation.

National and Ethnic Minorities and Discrimination

During 2002, the debate on the need for a law on national minorities was reopened. In addition to existing arguments – such as the coherent and uniform regulation of this issue – new reasons were put forward. Among the most important were the manifestation of "new minorities" such as Ruthenians and Slav Macedonians, considered "artificial" by some members of other minority groups in parliament, and the increasing number of emigrants residing in Romania.

A study in which APADOR-CH participated highlighted the necessity to have a framework-law on national minorities, but showed that it was also necessary to adopt a definition of the concept of "national minority" and to make a distinction between national minorities and ethnic groups.

According to Government Ordinance No.137/2000 on Non-Discrimination, the National Council for Combating Discrimination was to have been set up within 60 days of the ordinance's publication, i.e., by the end of October 2000. However, Government Decision No. 1194/2001 regarding the creation, organization and functioning of the National Council for Combating Discrimination (CNCD) was only passed in December 2001, and the council came into being in mid-2002. Although the government decision stipulated that the CNCD would work independently, without interference from other institutions or state authorities, it was in fact an executive structure of the central administration, under direct control of the government. The CNCD's steering board of one president and six members could be appointed and revoked by decision of the prime minister.

Regrettably, the CNCD had made no noticeable impact by the end of 2002. Its sole public intervention was the controversial support it gave to the National Audiovisual Council (CNA), when the latter decided to withdraw the license of OTV television station under pressure from the Romanian president, a decision APADOR-CH criticized. This incident confirmed the urgent need for the CNCD to establish a precise and transparent methodology for assessing discrimination.

On December 18, the government passed Decision No. 1194/2001 on the modification and completion of government, and on the organization and functioning of the CNCD. The steering board, now renamed a "steering council," became a mere consultative body aiding the president of the CNCD in assessing petitions and complaints and applying penalties. The modification completely eliminated any idea of the independence of the CNCD. Indeed, according to the decision, the president of the CNCD was to be "appointed and revoked by decision of the prime minister" (article 4). As a result, the CNCD became a direct instrument of the prime minister, with no power whatsoever to oppose, if need be, abusive actions by the government.

