

UNHCR POSITION ON THE RETURN OF REJECTED ASYLUM SEEKERS TO COTE D'IVOIRE

I. BACKGROUND

1. For three decades after Côte d'Ivoire became independent in 1960, the country was an island of relative calm and prosperity in a region which has been turbulent since the late 1980's. In general terms, this climate of relative calm has been attributed to Côte d'Ivoire's first president, the late Felix Houphouët Boigny, who was a skilful politician and statesman.

2. Côte d'Ivoire started showing signs of tensions in the early 1990's amidst high social agitation, shortly after the opposition political parties were legalised. The death of F. H. Boigny in December 1993 opened an era of political tension, starting with disputes over the succession of the late president and culminating with the 24th December 1999 military coup d'etat, which toppled the government of Henri Konan Bédié, the second president of Côte d'Ivoire.

3. After almost a year of administration of the country by a military junta headed by the late General Robert Guei, president Laurent Gbagbo came to power in October 2000, following disputed presidential elections. One prominent political figure, Alassane Dramane Ouattara, a Muslim northerner, former Prime Minister, and the leader of the "Rassemblement des Républicains" (RDR), had been barred from standing in the elections. As a result, a significant part of the Ivorian population who were sympathisers of the RDR and its leaders (mostly northerners and Muslims) felt that they were being deliberately marginalised from the affairs of the nation by president Gbagbo and his followers.

4. Due to the above mentioned political environment, Côte d'Ivoire became increasingly unstable and on 19 September 2002, a group of soldiers protesting against their planned demobilisation by the government successfully organised themselves in a rebel movement and attempted a coup d'etat. Amongst the casualties were General Robert Guei, the former Head of the military junta who ruled the country from December 1999 to October 2000 and the then Minister of Interior, Boga Doudou.

5. In their plans, the rebels who were mostly concentrated in the center and the northern part of the country, intended to march towards Abidjan. However, with the rapid deployment of the French forces stationed in the country pursuant to a defence agreement signed with Côte d'Ivoire in 1963, the rebels' advancement towards Abidjan was halted.

6. As a consequence, the country was split into two main parts: the northern part under the control of the rebels of the "Mouvement Patriotique de la Côte d'Ivoire" (MPCI) and the southern part under the administration of the elected government. In the western part, two other rebel movements, namely the "Mouvement Patriotique Ivoirien du Grand Ouest" (MPIGO) and the "Mouvement pour la Justice et la Paix" (MJP) were established. These three movements are now grouped under the umbrella name of "Forces Nouvelles" (FN), under the leadership of the MPCI. Through

regional initiatives to broker a peace process, the government and MPCCI signed a ceasefire agreement in Lomé by mid-October 2002. Such agreement was subsequently violated by both parties, which contributed to a further deterioration in the security situation.

7. In January 2003, as the situation in Côte d'Ivoire remained highly volatile, France convened peace talks in Marcoussis, near Paris, to which all the protagonists were invited. As a result, the parties signed a Peace Agreement on 24 January 2003. The Linas-Marcoussis Peace Agreement includes provisions on the following matters:

- (a) creation of a transitional government to include representatives of all sides, under the leadership of Seydou Elimane Diarra, a northerner who headed the country's national reconciliation conference in the last quarter of 2001;
- (b) regroupment of all armed forces under the supervision of ECOWAS and French forces, and subsequent disarmament and demobilisation of all recruits since the 19th September 2002;
- (c) revision of the nationality law;
- (d) revision of the highly contentious article 35 of the Ivorian Constitution on eligibility for the presidency;
- (e) revision of the 1998 law on land ownership;
- (f) preparation for presidential and parliamentary elections to be held in October 2005.

8. Meanwhile, the UN Secretary General appointed Mr. Albert Tevoedjre as his Special Representative (SRSG) in Côte d'Ivoire, tasked with monitoring implementation of the peace process, as well as the deployment of the UN personnel under the umbrella of MINUCI ("Mission des Nations Unies pour la Côte d'Ivoire") in conformity with Resolution 1479 (2003) of the Security Council.

II. RECENT POLITICAL AND MILITARY DEVELOPMENTS

9. Since the signing of the Linas-Marcoussis Peace Agreement, a number of steps have been taken towards the restoration of peace in Côte d'Ivoire. Such steps include the signature of a Ceasefire Agreement between the armed forces and the rebel groups in May 2003, as well as the adoption of an Amnesty Law in July 2003. Consequently, individuals detained as a result of the civil war have been released. The regular forces and the FN have agreed on regroupment sites for the purpose of disarmament and demobilisation as provided by the Peace Agreement. Military recruitment has ceased on both sides and there has been no military confrontation since June 2003.

10. Despite a number of achievements in the peace process, the following problems remain:

- Geographically, the country is effectively partitioned, with the government controlling only an estimated 40% of the territory.
- Politically, president Gbagbo has openly shown skepticism vis-à-vis the Linas-Marcoussis' provisions. On many occasions, he has publicly dissociated himself from this agreement. As a consequence, there is a high level of mutual mistrust between president Gbagbo and his followers on the one hand, and the FN on the other hand.

- Legally, the reform of article 35 of the Constitution, as well as the nationality and land ownership laws are yet to be initiated.
- The Human Rights Commission and the International Commission of Inquiry are yet to be established.
- The Disarmament, Demobilisation, Return and Reintegration (DDRR) process is still at the level of discussions.

11. Owing to his fundamental disagreement with the Linas-Marcoussis Peace Agreement and all subsequent arrangements thereto, president Gbagbo has appointed both the Minister of Defence and the Minister of Security in total contravention with the said arrangements. As a consequence, the “Forces Nouvelles” have suspended their participation to the Government of National Reconciliation as of 23 September 2003, which has led the SRSR in Abidjan to speak about a “political impasse” in the country. Following further negotiations with the government and their subsequent agreement on 4 December 2003, the “Forces Nouvelles” decided to resume participation to the Government of National Reconciliation as of 6 January 2004.

12. Although president Gbagbo stated during his address to the Nation on 31 December 2003 that “the commitments under the Marcoussis Agreement must be honoured by all...”, it is worth mentioning that this objective is still highly challenged on both sides. In this regard, there remain serious differences on the amendment of three fundamental legislative texts, namely Article 35 of the Ivorian Constitution of 2000 on eligibility to the presidency, the 1961/1972 Nationality Code and the 1998 law on rural land tenure. President Gbagbo has announced his intention to resort to a referendum for these three issues whereas the “Forces Nouvelles” believe that such mechanism is clearly against the letter and spirit of the Marcoussis Agreement, and would furthermore be inappropriate at this point in time.

13. Preparation for the elections to take place in October 2005 is in its preliminary phase with a request to the UN from the Government of National Reconciliation for assistance and electoral observers. The members of the Constitutional Court have been installed and the government has drafted provisions which should govern the October 2005 elections. Additionally, an Electoral Adviser has been appointed and is in the process of drawing up plans for the role expected from MINUCI.

14. The security situation of Côte d’Ivoire remains fragile, with frequent violent incidents of killing, intimidation and robbery, occurring on both sides, albeit the few above mentioned positive signs. Such incidents are attributed to uncontrolled armed elements, particularly in the rebel-held areas. Indeed, the high level of military recruitment on both sides during the conflict and the subsequent large numbers of uncontrolled armed elements is posing a serious challenge to the DDRR process.

15. Furthermore, in recent weeks, the Secretary General of the UN and other prominent figures involved in monitoring implementation of the Ivorian Peace Agreement have repeatedly expressed their concern that Côte d’Ivoire might slip back into conflict. The main reason for such risk was the then political stalemate, following the withdrawal of the FN from the Government of National Reconciliation. Indeed, there have been recent reports that military recruitment has started again. Additionally, there are consistent reports that the rebel-held areas are continuously degenerating into lawlessness, which further increases the potential for a further

deterioration of the humanitarian situation, given that such areas remain out of reach for the humanitarian agencies. Although the “Forces Nouvelles” have now resumed their participation to the Government of National Reconciliation, most observers agree that the peace process still needs to be consolidated.

III. HUMANITARIAN SITUATION

16. Obviously, the political unrest and military turmoil described above have generated a state of insecurity in Côte d’Ivoire. As a result of the volatile security situation, it is reported that at least 750,000 Ivoirians are internally displaced, while some 50,000 sought refuge into neighbouring countries, mostly Liberia and Guinea. Additionally, about 40,000 Liberian refugees who were spontaneously settled in Côte d’Ivoire were forced to return to Liberia under less than ideal conditions. Finally, there have been a significant number of Third Countries Nationals (TCNs) who were settled in Côte d’Ivoire prior to the crisis, either returned to their country of origin or entered a third country in transit.

17. As far as the TCNs are concerned, their precarious situation in Côte d’Ivoire dates back to 1998, when incidents translating a high degree of hostility against foreign nationals started to occur. As a consequence, Côte d’Ivoire registered many waves of TCNs’ departure from the country. Undoubtedly, these persons constituted an important labour force to work in cocoa and oil palm farms. So far, it is estimated that the economy remained operational enough to enable the government to continue functioning. However, the significant decrease in the labour force and associated demand for goods and services may depress the economy, thus contributing to a further deterioration of living standards and ultimately a worsening of the overall humanitarian situation.

18. The World Food Program currently has a food distribution programme in Côte d’Ivoire, both for refugees and IDPs. During the Excom session in October 2003, the representatives of the government of Côte d’Ivoire appealed to UNHCR for an increased assistance to the IDPs in the country, considering that such population is mingled with refugees in areas where poverty is prevailing as a consequence of the internal conflicts.

19. It is estimated that between May and June 2003, 45,000 Liberians sought refuge in Côte d’Ivoire, as a result of the mounting insecurity in their country of origin. Therefore, UNHCR had to increase its assistance to persons of concern to include both the said refugees and the receiving communities, which were determined to be increasingly vulnerable due to more than a decade of instability.

V. CONCLUSION

20. In light of the above, and considering that the Ivorian situation is precarious and may remain fluid for some time to come, UNHCR is of the opinion that the question of return of rejected asylum seekers should be approached with caution.

21. As regards individuals originating from Abidjan, where a relative level of security has been established, such persons may be returned there, provided that family members have been identified, to avoid creating a situation of internal displacement.

22. With regard to individuals originating from outside Abidjan, where uncontrolled armed elements continue to pose a serious threat to the security of the population and private property, return to Côte d'Ivoire should be avoided, lest it may increase further the number of internally displaced persons and/or their physical safety is put in jeopardy. States should therefore refrain from forcibly returning such persons to Côte d'Ivoire and grant them complementary forms of protection instead, until further notice. This position will be reviewed in the second half of 2004.

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