



## Executive summary

### FIACAT and ACAT Côte d'Ivoire's report for the 3rd UPR of Côte d'Ivoire

#### I. Fight against torture

The revision of the Criminal Code of 9 March 2015 introduced the criminalisation of torture as a crime against humanity or a war crime. However, there is still no autonomous criminalisation of torture. A new Criminal Code is being adopted but it is not clear whether it will contain such a criminalization. This incrimination is all the more important as allegations of acts of torture in transitional places of deprivation of liberty, and in particular by the Directorate for the Surveillance of the Territory (Direction de surveillance du territoire - DST), are recurrent. The case of Commander Jean Noël Abéhi can thus be cited. Finally, during its visits to the country's prisons, ACAT Côte d'Ivoire received testimonies from detainees claiming to have been victims of violence during their police custody and sometimes from certain prison officers (recruited from the former forces nouvelles).

With regard to the prevention of torture, it should be pointed out that despite the adoption by the Council of Ministers on 11 October 2017 of a draft law authorizing accession to the OPCAT, this Protocol has still not been ratified without the reasons for the delay being communicated by the Ministry of Justice. Finally, Côte d'Ivoire has still not submitted its initial report, due since 1997, to the Committee against Torture.

#### Recommendations:

- Expedite the process of revising the Criminal Code, with a view to its adoption by the end of 2019, and ensure that torture is criminalized as an autonomous offence in accordance with the provisions of the Convention against Torture, that law enforcement officials are trained in the prohibition of torture and that its initial report is submitted to the Committee against Torture without further delay;
- Ratify, without further delay, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and establish a national preventive mechanism in accordance with the provisions of the Protocol.

#### II. Detention

Prison overcrowding remains endemic in Côte d'Ivoire. As of 28 September 2018, Ivorian prisons housed 19 125 prisoners with a capacity of 6 989 places (if counting 3m<sup>2</sup> per prisoner), representing an occupancy rate of 274%. It is also an increase of more than 2000 detainees compared to April 2018. This prison overcrowding is due in particular to excessive use of pre-trial detention, a high crime rate and the absence of alternative sentences to detention. In this regard, it should be noted that progress has been made, with the adoption on 27 December 2018 of the new Code of Criminal Procedure, which provides a stricter framework for pre-trial detention and introduces alternative measures to detention. Previously, the Ministry of Justice had already issued several circulars aimed at regulating the use of pre-trial detention in order to reduce its rate (35% of detainees were awaiting trial in April 2018). In addition, the construction of new prisons was announced by the Director of Human Rights. As for living conditions inside prisons, they do not comply with international and regional standards. Indeed, prisons are often dilapidated and unhealthy and there are not

enough sanitary facilities. However, it should be noted that the annex setting out the cost of the food ration and the provision of hygiene and maintenance products set the food ration at 1000 F CFA for each prisoner in 2017. However, in practice, and due to prison overcrowding, these amounts are not respected.

Recommendations:

- Ensure the effective implementation of the provisions of the new Code of Criminal Procedure, particularly those aimed at regulating pre-trial detention and the use of alternatives to detention, in order to reduce prison overcrowding;
- Improve material conditions of detention in order to bring them into line with international and regional standards, in particular by improving sanitary facilities and increasing the budget allocated to the provision of hygiene and food products.

### **III. Administration of justice**

Despite the revision of the Constitution to introduce a senior judge to head the High Council of the Judiciary in place of the President of the Republic, the Ivorian judiciary is not yet completely independent. Corruption and executive interference in Ivorian justice remains a problem, as denounced by the former president of the Trade Union of Judges of Côte d'Ivoire, Grah Ange Olivier. Similarly, in January 2019, the National Union of Judges of Côte d'Ivoire, the Trade Union of the Judiciary and the Bar Association denounced the threats and interference of the executive branch in the judiciary. This pressure even led to the resignation of the President of the Constitutional Council on 3 February 2015.

Recommendation:

- Guarantee the independence of the Judiciary by ensuring respect for the security of tenure of judges, revising the Constitution to allow judges to elect the President of the High Council of the Judiciary themselves and combating corruption and interference by the executive branch in the Judiciary.

### **IV. Fight against impunity**

After the post-electoral crisis, many reports have documented crimes committed by the belligerents (pro Gbagbo and pro Ouattara). While Ivorian justice has so far prosecuted and convicted pro Gbagbo belligerents, no convictions have yet been observed on the pro Ouattara side except for Chief Amade Ouérémi. Similarly, only Camp Gbagbo is being prosecuted before the ICC. This suggests justice for the winners and could encourage impunity. In addition, former rebel commanders, allegedly responsible for atrocities and human rights violations, have continued to occupy positions of authority, including in the armed forces and in the public administration.

Recommendation:

- Ensure that all allegations of serious human rights violations are investigated and that the perpetrators are prosecuted and convicted regardless of their political affiliation and continue to fully cooperate with the ICC.