

End-of-mission statement by Carlos Salazar Couto, Chair of the United Nations Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, and Ravindran Daniel, member of the Working Group on their visit to Côte d'Ivoire

Abidjan, 13 March 2024

1. Introduction

Akwaba!

In our capacity as Chairperson and member of the United Nations Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, we conclude today our second official visit to Côte d'Ivoire, which took place from 4 to 13 March 2024.

During the past ten days, we have had the opportunity to gather first-hand information on mercenary and mercenary-related activities in all their forms and manifestations, as well as on the activities of private military and security companies and their impact on human rights. We learned about laws and procedures, good practices and challenges in these distinct areas.

We are grateful to the Government of Côte d'Ivoire for the invitation to visit the country, and we extend our thanks to those who made our visit possible. The cooperation we received demonstrates Côte d'Ivoire's commitment to upholding its human rights standards. We want to express our appreciation to the Ministry of Justice and Human Rights, particularly the Director of the Human Rights Division, and to the Ministry of Foreign Affairs for coordinating our visit and for the constructive meetings we had. During our visit, we had fruitful exchanges with numerous senior officials representing different ministries and agencies in Abidjan, including the Minister of Foreign Affairs, His Excellency Kacou Adom, and the Chiefs of Staff of the Ministry of Justice and Human Rights, the Ministry of Defense, the Ministry of Interior and Security, the General Directorate of the National Police and Gendarmerie, Minister of National Cohesion, Solidarity and the Fight against Poverty. We had fruitful meetings with the Chairs of the National Human Rights Commission and with the National Federation of the private security companies of Côte d'Ivoire. We also met with the United Nations country team as well as with representatives of the diplomatic community. We thank them all for their openness in exchanging views with us.

We had the opportunity to travel to Korhogo and to Ouangolodougou, in the North of the country at the borders with Mali and Burkina Faso. While there, we visited the transit refugee camp of Ouangolodougou and we met with high-level officials of the province of Poro and of Ferkessédougou.

Lastly, we warmly thank members of the national civil society and non-governmental organizations who met with us. Their cooperation with our mandate is a testament to their vital role in monitoring Côte d'Ivoire's human rights obligations.

Our human rights mandate focuses on mercenaries, mercenary-related activities, and private military and security companies, and their impact on human rights. The purpose of our visit was two-fold. Firstly, to follow-up on the 2014 visit of this Working Group and to examine how the recommendations issued in its report have been implemented by the authorities of Côte d'Ivoire. Secondly, to assess how the country's transition since the 2002-2007 armed conflict and the post-election crisis in 2010, including when dealing with the phenomenon of

mercenaries. Throughout the visit, our Working Group aimed to better understand the human rights issues revolving around mercenary-related activities and private military and security companies in the country and how the Ivorian authorities address them.

What follows are our preliminary observations on some of the critical legal and policy issues relevant to our mandate in Côte d'Ivoire. We will prepare a detailed report examining the issues identified in our present note, including conclusions and recommendations. We will submit our full report to the Human Rights Council in September 2024.

At the outset, we note with appreciation that some of the recommendations issued by this Working Group in 2014 were implemented.

2. Mercenaries and mercenary-related activities

We welcome the strong commitment we received from the authorities to ratify the 1989 International Convention against the Recruitment, Use, Financing and Training of Mercenaries and the African Union Convention for the Elimination of Mercenarism. We urge the authorities to ratify both treaties within the next months, as committed by representatives of the Ministry of Justice. We also note that Côte d'Ivoire is a party to the Protocol Additional to the Geneva Conventions of August 12 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), June 8 1977, which defines mercenaries in its article 47.

The new Criminal Code of the Côte d'Ivoire, amended in 2019, contains provisions dealing with mercenaries directly, reflecting the UN Convention on Mercenaries. Section 5, Articles 171, 172 and 173 of Criminal Code criminalize any involvement in mercenary activities and define a mercenary as any person specially being specially recruited to fight in an armed conflict, being motivated by private gain, not being a national of a party to the conflict, and not being a member of the armed forces of a party to the conflict. The law further prohibits Ivorian nationals' involvement as mercenaries abroad. We are satisfied that Section 5 of the 2019 Criminal Code provides for a definition in compliance with the 1989 Convention.

Mercenaries and mercenary-related actors were widely used in 2002-2007 conflict and after the 2010 presidential elections. As reported by this Working Group in 2014, an estimated 4,500 mercenaries were recruited by parties to the conflict with a large number coming from bordering countries. Scores of human rights violations were perpetrated by these mercenaries, including summary executions, abductions, torture and sexual violence against women. Despite such an extensive presence in the past, it appears from our dialogue with Governmental and civil society actors that Côte d'Ivoire is now free of mercenaries or mercenary-related actors.

We note that the authorities have taken wide ranging measures to ensure reconciliation through transitional justice, including financial reparations, the establishment of the "Commission Dialogue, Vérité et Réconciliation" and the ratification of the Rome statute which gave rise to the case of *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*.

However, we also took note of the 2018 Amnesty Ordinance granting amnesty to 800 people accused or indicted for crimes linked to the 2010-11 crisis or the attacks on the state that followed, among whom could be people presumed responsible for the most serious crimes, including the recruitment and financing of mercenaries. While we welcome the efforts of the authorities to prevent and deter the commission of future crimes through "reconciliation" measures, it is our strong view that reconciliation and justice, rather than being exclusive, are mutually reinforcing.

At the time of writing these preliminary observations, the Working Group did not receive satisfactory information about measures taken to address crimes committed by mercenaries during past conflicts in Côte d'Ivoire, particularly in relation to bringing to justice perpetrators of violations committed during the past conflicts and ensuring access to remedies for victims of violations. We took note of the fact that the crime of mercenarism was not included in the national legislation prior to 2019, but the Government informed our delegation that such crimes had been prosecuted under other charges. However, we are of the view that this accountability gap is worrying and seems to anchor impunity for gross human rights violations and abuses for past crimes in Côte d'Ivoire. We reiterate that, without justice for victims, real and lasting reconciliation cannot be achieved.

We are also of the view that the authorities need to intensify efforts to end the proliferation of arms and weapons in the public domain.

3. Prevention of recruitment, including predatory recruitment, through economic empowerment

Among the findings of the 2014 report were the exacerbated risks to the country's fragile stability emanating from socioeconomic vulnerabilities and inequalities among population groups, often observed across geographic districts with the rural North being left further behind. Our Working Group has persistently reported the risks around predatory recruitment, taking advantage of marginalized groups socioeconomic status or other vulnerabilities and in some instances involving coercion or fraud. We also reported the ways in which PSCs and related actors are using such recruits and the human rights violations perpetrated around their recruitment. During the past conflicts in the country, many young people, including children, were recruited as combatants in neighbouring countries. Some of them were reported to have later become mercenaries given their extensive training and involvement in warfare. Child soldiers who were drawn into mercenarism were often from impoverished settings.

Ten years later, we note the government's commitment and the steps taken to address such risks and unite the country towards social cohesion and prosperity with a social dividend while placing the pillars for sustainable growth. At its core, the issue of employment is intricately linked to fostering inclusive growth and social accountabilities, characterized not merely by economic expansion but by the equitable distribution of opportunities and the recognition and protection of individuals' contributions and human rights. The country seems to have recognized this dual challenge and it stands to enjoy compounding benefits, in line with Côte d'Ivoire's pledges to deliver on its SDGs commitments in an integrated and inclusive manner.

We note with appreciation the government's efforts in implementing policies and programmes to increase the productivity of all employment—in agriculture, nonfarm household enterprises, and the modern wage sector. We also identified good policies that focus specifically on helping youth to be engaged in higher productivity work in different sectors.

Special attention was also placed to targeted programs for young women that may be particularly disadvantaged by other dimensions of the transition, such as family formation, compared with young men. Social norms tend to enforce job segregation by gender, yet programs to boost women's transition into productive employment have tried to take a more integrated approach focusing on skills improvement and women's rights advocacy.

Lastly, in the North Operational Zone (NOZ) bordering Mali and Burkina Faso, the government has strengthened its security deployment and rolled out a wide range of social programs to alleviate poverty and provide alternative livelihood opportunities for youth. The integration of

security measures combined with social and economic programmes has reportedly led to a decrease in militant violence since 2020 and 2021 when the region witnessed a series of targeted attacks.

We urge the Government, however, to ensure an equal distribution of economic resources throughout the country, and to increase measures to fight corruption. Existing inequalities, including extreme poverty, discrimination and lack of employment opportunities and access to education and health care, are at the root of violence including mercenarism. Equal access to economic, social and cultural rights throughout the country is key to prevent the risk that the youth of Côte d'Ivoire turns to illegal activities including mercenarism.

4. Private Military and Security Companies

The country has witnessed an exponential increase in private security companies, constituting a significant contribution to national budget. Data illustrates a significant escalation: from 35,000 agents employed by 100 PSCs in 2005, to 50,000 employed by 300 PSCs in 2009, to 70,500 employees engaged by 400 companies in 2012 and eventually 200,000 by 300 companies in 2024. This rapid expansion of both PSCs and their personnel mirrors the heightened demand for security among Ivorians. In 2014, the presence of 600-900 PSCs was observed and in 2024 the figure lays between 200-300, yet according to the Ministry of Interior's official records, only 382 had obtained licenses for operation as opposed to 64 in 2014.

We note with concern the challenges around identifying an accurate figure of both employees and PSCs active in the country. Despite all interlocutors agreeing towards their proliferation, the figures differ vastly making the evaluation and oversight of the actual sector, alongside the impact of their services, difficult to monitor.

In 2012 the Authority for Disarmament, Demobilization, and Reinsertion of ex-combatants (ADDR) undertook a series of steps to reform the security sector. This initiative, concluded in June 2015, reintegrated 55,000 ex-combatants out of a total of 74,000 identified individuals. Within this reform, Private Security Companies (PSCs) played a pivotal role by employing and reintegrating some former combatants. However, it appears from our dialogue with the Government that no vetting process was put in place to verify whether these former combatants were themselves involved in human rights abuses and violations prior to their reintegration. We also note with concern that a reported 19,000 ex-combatants, including nationals of neighbouring countries, benefit from the free movement agreement between ECOWAS countries, posing a security threat to civilians.

Private Security Companies (PSCs) continue to function within a contractual framework and specified boundaries. The configuration of the PSC market is predominantly determined by the State, as it progressively shifts away from traditional responsibilities such as economic and social intelligence gathering, funds transportation, passenger and baggage screening at ports and airports, and personal protection. These functions have thus been relinquished, often implicitly, to private enterprises. Consequently, the private security sector has evolved into a significant component of broader security policy over time.

Decree No. 2005-73, dated 3rd February 2005, governs the regulation of private security and cash-in-transit services (referred to as the "2005 decree").

We identified the following challenges:

- The lack of standardisation in the training of PSC personnel placing a risk to public safety. It appears that despite the legal obligation of PSCs to train their staff in

accredited training centres, the majority of PSCs do not use these centres to train their directors or personnel. Large and medium-sized companies mostly have their own training centres, which are approved by the Fonds de Développement de Formation Professionnelle (FDFP) and train their own agents. This lack of standardisation of training, which should be ensured by the State through duly accredited training centres, results in disparities in the skills of PSC agents. Adequate training, particularly in the protection of rights and fundamental freedoms, is essential to ensure that no violations are committed by PSC personnel in the course of their duties. On the positive side, the WG notes with interest the efforts of the National Federation of PSCs, to standardize and provide a monitoring framework for PSCs operations, in addition to stricter adherence to labour law for their personnel. We welcome the role of the National Human Rights Commission in monitoring the activities of PCSs. However, we strongly recommend a more significant oversight function on private security actions, including establishing an independent mechanism with the participation of members of the civil society to monitor and oversee the private security sector.

- Decree 2005-73 does not mandate a rigorous screening procedure for private security firms, despite periodic inspections conducted by the appropriate governmental body. There is no specific mandate for implementing a thorough vetting process to verify whether private security personnel have been implicated in previous human rights violations. Moreover, there is no provision for establishing mechanisms for addressing grievances from victims in cases where violations occur. While the Human Rights Council has conducted a dedicated study in 2023 on PSCs and Human Rights, the actual implementation of their recommendations remains unknown among the PSCs.

With regards to private military companies, we are very concerned about the absence of a framework to regulate their activities. The increasing involvement of foreign private military companies in armed conflicts and their contracting by bordering States raises serious questions regarding the lack of regulation of those non-state actors in Côte d'Ivoire itself.

We took note of the authorities' affirmation that there was no such private military companies in Côte d'Ivoire and that there is no privatization of core state functions. However, in view of its past and the fact that private military actors are prospecting for new contracts in the region, we consider that the absence of such a regulatory framework constitutes a legal vacuum which might give rise to impunity in the future.

Against this background, Côte d'Ivoire must intensify its efforts to implement standards regulating the activities of private military companies.

We received official information that there is no private military companies in Côte d'Ivoire, but we want to reiterate our call for the establishment of a regulation of such activities in the country.

5. Other General observations

We welcome the inclusion of the definition of rape and other crimes of a sexual nature in the newly adopted Criminal Code of 2019, as well as the efforts taken by the authorities to combat violence against women. More needs to be done to give full effect to this legislation. We also welcome the establishment of a national civil registry.

We also welcome the fact that dozogs, who were very active in the hostilities of 2002-2007 and post 2010, are no longer carrying out State security functions, and have gone back to their traditional roles.

We also note the strengthening of security measures at the borders, in an effort to protect Côte d'Ivoire from any spill-over from neighbouring countries. At the same time, we welcome the fact that Côte d'Ivoire remains a land of hospitality for refugees and asylum seekers. The country continues to open its borders to people seeking protection, including, since May 2021, Burkinabe refugees fleeing violence by armed groups. We also noted that since 2011, more than 280,000 Ivorian refugees have voluntarily returned to their country, thanks to the fundamental and durable changes put in place by the authorities, as well as efforts for reconciliation and national cohesion.

6. Conclusion

In the last ten years, Côte d'Ivoire has made considerable progress in achieving stability, rebuilding the core institutions, strengthening the security sector and ensuring socioeconomic development. The government made conscious efforts to ensure social cohesion and to strengthen the security of its citizens, particularly in the border areas. Notably, the government has implemented various economic programs to promote sustainable livelihood opportunities of the most marginalized segments of the population, with specific initiatives targeting youth and women.

However, serious challenges remain. Recent political and security developments in the neighbouring countries, including the presence of extremism/jihadism, may possibly have an impact on this, still fragile, security and political stability. As this Working Group has persistently reported, the recruitment, financing, use and transfer of mercenaries, mercenary-related and private military and security actors in any context prolongs conflicts, amplifies levels of violence, substantially increases the risk of violations of human rights and international humanitarian law, and undermines peace efforts.

Ten years on, our follow-up visit provides a solid platform to continue our cooperation to strengthen Côte d'Ivoire efforts to pursue a sustainable human rights approach to security and peace. To that effect, we call on the international community to continue its technical support to Côte d'Ivoire.