

Ivory Coast

The Ivorian court system continued to be used as a means to harass political opposition leaders and independent jurists. The judiciary is often subjected to interference from the executive branch and is highly vulnerable. Towards the end of the year, a coup d'Etat led by General Robert Guei ousted President Bédié.

The Ivory Coast is a republic, having gained independence from France on 7 December 1960. The 1960 Constitution provides for the division of power between the three branches of government. The executive power is vested in the President of the Republic who is both the head of state and head of the government. The legislative power belongs to a bicameral parliament composed of a National Assembly, elected for five years by universal direct suffrage, and a Senate, two thirds of which is elected for six years by universal indirect suffrage, the remainder being elected by the President him or herself. The judicial system is organised under the provisions of Title VII of the Constitution.

Under the provisions of Law N° 98-387 of 2 July 1998, the President is elected for 7 years. The Cabinet is selected by the President and is responsible to him or her. Formerly, Article 9 of the Constitution only provided for the duration of the President's mandate and re-election. Article 9 was amended, however, and now also provides for conditions of nationality (born of Ivorian parents), residence and age, and extends his or her mandate from 5 to 7 years.

The Ivory Coast had for a long time been considered as an example of political stability and economic growth in Africa, although it was not a democracy. The political framework was dominated for 30 years by Mr. Houphouët Boigny and his party (Parti Démocratique de Côte d'Ivoire, PDCI). In 1990, there was hope of democratisation when the country embraced a multiparty system, and freedom of the press, the Rule of Law and other positive developments were introduced.

However, on 24 December 1999 General Robert Guei took power in a military coup and the then President Bédié was exiled. General Guei promised to respect democratic rules but dissolved the National Assembly, the Constitutional Council and other institutions of the Republic. The International Commission of Jurists (ICJ) condemned this military coup, irrespective of the reasons behind it.

Human Rights Background

Constitutional Changes

In 1998, several constitutional amendments were discussed and were finally approved by Law N° 98-387 on 2 July, 1998. The most disputed amendments were those which extended the presidential term from 5 to 7 years, the amendment allowing the President to extend his or her term in office indefinitely in cases of emergency (Article 10), and the establishment of a Senate, making the Speaker of the Senate an alternate to the President of the Republic (Article 11). These amendments were contested by the opposition parties.

Political Parties

Opposition political parties have enormous obstacles vis-à-vis the increasing power of the ruling party, the Democratic Party of the Ivory Coast. The major opposition party is the Rally

of Republicans (RDR), whose leader is former Prime Minister, Mr. Alassane Ouattara, considered to be the main challenger to Mr. Henri Konan Bédié in the year 2000 elections. Thirty opposition members were arrested and were held without trial for a long period after the presidential elections in October 1995 and the government did not instigate investigations into these arrests. They were released in December 1998 when an amnesty was granted by the National Assembly.

Impunity

Impunity is widespread in the country. Killings and many other abuses by security forces go unpunished. In addition, violence and insecurity lead to an ongoing situation of human rights violations in the country.

Freedom of Expression

There were widespread student demonstrations in May 1999, reportedly in response to the failure of the government and the RDR to discuss the forthcoming elections of the year 2000. The demonstrations were harshly repressed by the security forces and the university was closed. Student associations had already been the subjects of harassment by the authorities in 1995, with many reported cases of torture and incommunicado detention.

The situation worsened in 1999 as many political opponents were arrested during the demonstrations, including some members of parliament. Although the Constitution provides for political freedom under Article 7, political opponents are often prevented from exercising this right. The freedom of expression of the national press is not respected by the authorities and the press is generally closed to opposition parties. In 1996 Amnesty International stated that "the legal system is being used systematically to stifle the opposition press and restrict its right to freedom of expression".

In November 1999, eleven leading opposition members were sentenced to 2 years in jail for public order offences after organising demonstrations. The trials were highly political, according to Mr. Ouattara, leader of the RDR, and were condemned by the international community.

Nationality Issues

One third of the population of the country is composed of foreign immigrants, as the Ivory Coast was a host country for asylum seekers from Burkina Faso and Liberia during the war there. However, there are now problems emerging regarding land rights. Ivorians want back much land which has been cultivated by immigrant populations. A conflict developed between the landlords (Kroumen) and the workers (Allogènes). The authorities are not doing anything to prevent or halt the situation. Twelve thousand Burkinabés were expelled from the Tabou region.

One case in particular is very illustrative of this problem of nationality. The government accused political opposition leader, Mr. Alassane Ouattara, of not having Ivorian nationality ("Ivoryness"), and of falsifying his identity documents in order to participate as a candidate in next year's presidential elections. Mr. Ouattara accused the government of defamation, and violence between police and the opposition leader's supporters erupted.

Mr. Ouattara's Ivorian nationality certificate was cancelled. His supporters say that he is being harassed simply because of the threat he represents to the government in the upcoming elections in the year 2000. President Bédié claims that Mr. Ouattara's father is from Burkina Faso, and that consequently he does not fulfil the Ivorian nationality requirement for candidacy for president, and thus he is not eligible to run as a candidate in the elections.

Mr. Ouattara maintains that both his parents were born in the Ivory Coast and that he can prove this.

The Judiciary

Title VII of the 1960 Constitution deals with the authority of the judiciary and the Supreme Court (De l'Autorité Judiciaire et de la Cour Suprême). Every article from this title has been modified by Law N° 98-237 of 2 July 1998. The amended Article 58 provides for the independence of the judiciary, of which the President of the Republic is the guarantor, assisted by a High Council of the Magistracy (Conseil Supérieur de la Magistrature).

Section 2 provides, in Article 62, for the Supreme Jurisdictions (Juridictions Suprêmes). The Court of Cassation (Cour de Cassation) is the court of final instance for civil affairs, whereas the Council of State (Conseil d'Etat) is the highest tribunal for administrative affairs. The Supreme Court is a single body composed of 4 chambers (constitutional, judicial, administrative, auditing). It is competent to try government officials for major offences.

Although the Constitution provides for an independent judiciary, it is in practice subject to executive and other outside influence (it follows the lead of the executive in national security or politically sensitive cases).

Appointment

According to Article 60 of the 1960 Constitution (as amended), judges are appointed by the President of the Republic, on proposal by the Minister of Justice and after the approval of the Conseil Supérieur de la Magistrature.

Cases

Zoro Epiphane Ballo (judge): In September 1999, Judge Zoro E. Ballo issued an Ivorian nationality certificate to political opponent Mr. Alassane Ouattara.

On 27 September 1999 Mr. Alassane Ouattara, who had declared himself a future candidate in the 2000 presidency elections, asked for a nationality certificate. He gave all the documents required for this kind of certificate. The following day, Judge Zoro E. Ballo issued the certificate, signed it and recorded it. On 29 September, copies of the certificate were given personally to a representative of Mr. Ouattara.

Prior to this, Judge Zoro E. Ballo had received a phone call from the criminal affairs desk of the Ministry of Justice and Human Rights, saying that he should not issue any document before receiving the approval of the Minister of Justice. As this phone call was not confirmed by mail and the judge had no doubt about the validity of the documents given to him by Mr. Ouattara, he decided to ignore it.

On 5 October, an investigation took place at the Ministry of Justice to establish whether the judge had signed Mr. Ouattara's nationality certificate. The Minister of Justice asked the judge to find a remedy to cancel this certificate. He was also threatened with being charged with forgery if he refused to cancel it. He was further accused of being a "rebel judge".

On 6 October, a meeting was held, at which Judge Zoro E. Ballo was not present. The Minister of Justice alleged that there were irregularities in the document. As a consequence, on 12 October, the judge was accused of forgery by the Minister of Justice, without respect for the presumption of innocence.

The principal accusations were that the judge did not sign a written inquiry, despite the fact that the law provides for the possibility of oral inquiry. It was also alleged that the date of signature of the certificate was not correct, which the judge denied.

In a press conference, Judge Zoro Ballo said:

"It was not a provocative attitude. I am a judge. The law gives me the power and the competence to take decisions. I do not have to refer to the head of state. The head of state is head of the executive. I am a member of the judicial power. In the name of the principle of separated powers, I am not bound by the head of state's declarations".

On 12 November 1999, the judge resigned under heavy pressure.