



MFWA SUBMISSION TO THE THIRD UPR OF CÔTE D'IVOIRE

FREEDOM OF EXPRESSION DEVELOPMENTS SINCE SECOND UPR

1. Since Côte d'Ivoire's second UPR in July 2014 through July 2018, the MFWA recorded 40 incidents of violations of freedom of expression and freedom of assembly.

METHODOLOGY

2. The information here is based on reports by the MFWA's correspondents and on reports issued by members of the IFEX global network, of which the MFWA is a member, and other freedom of expression and human rights groups.

NATIONAL FRAMEWORK FOR FREE EXPRESSION RIGHTS

3. The Constitution and international and regional human rights treaties ratified by Côte d'Ivoire all guarantee the rights to freedom of expression, freedom of assembly, and freedom of association.
4. Article 9 of the Constitution guarantees the right to information and freedom of expression. Articles 10 and 11 of the Constitution guarantee freedoms of association, assembly, and demonstration.
5. Law N° 2004-643 of 14 December 1991 and Law N° 2006-278 of 23 June 2006, which established the National Council for Audiovisual Communication (Conseil National de la Communication Audiovisuelle – CNCA), regulate radio and television media.
6. Law N° 2006-196 of 28 June 2006 established National Press Council (Conseil National De La Presse – CNP) as the overarching regulatory body for print media.
7. While Press Law N° 2004-643 of 14 December 2004 prohibits imprisonment for press offenses, Articles 170–173 of the Penal Code allow significant fines of up to 5 million West African CFA francs (US\$8,875 as of 27 July 2018) for vaguely

defined offenses, such as disseminating “false information.” The MFWA believes that the threat of such large fines and vague definitions have caused a chilling effect on the media that is similar to the chilling effect of imprisonment penalties.

8. Press Law N° 2004-643 also establishes an extensive governmental oversight regime, requiring newspapers to submit a signed declaration to the government before every publication. This declaration involves the deposit of various documents, including the “identification of the press outfit, the managing editor and agents (journalists) working for the newspaper or journal” (Article 6).”
9. On 30 January 2014, Côte d’Ivoire passed a Freedom of Information Law, establishing the Commission for Access to Public Information (Commission d’Accès à l’Information d’Intérêt Public et aux Documents Publics – CAIDP) to ensure citizens’ and journalists’ open access to all information. In 2016, the CAIDP called on all government offices to publicly designate an information officer to process requests for information.¹

CONTEXT OF THE MEDIA

10. Côte d’Ivoire has five radio stations. All five broadcast in French, and one also has programming in Arabic. Three have national coverage. Four are privately owned. Due to the low literacy rate of 43.1% and the high cost of newspapers and television, radio is the most accessible news source.
11. All three television stations broadcast in French. There are only two state-owned television stations available (RT1 and RT2) and one privately owned station (Canal+Horizons). Canal+Horizons does not carry any local programming or news. Canal+Horizons is regularly available to about 40,000 homes.
12. In December 2016, the CNCA approved of four new private television channels and two companies to serve as multiplex operators.
13. There are five French-language daily newspapers, but likely due to the low literacy rate, newspapers have a low daily circulation (the highest being 20,000) and are most read in Abidjan.²
14. The CNCA and CNP regulate the media and are legally independent from the government and government influence. However, it is unclear if they are independent in practice, as many fines and suspensions are issued against media that criticise the government or support the opposition.³
15. Internet penetration is low (26.3%) and is mainly available in large cities. High data costs remain a challenge, and 1 gigabyte of data costs approximately 5,000 West African CFA francs (approximately US\$10 as of 2017). 3G and 4G

¹ <http://www.freedominfo.org/2016/04/ivory-coast-commission-acts-to-implement-publicize-law/>.

² http://countrymeters.info/en/Cote_d'Ivoire.

³ <https://freedomhouse.org/report/freedom-press/2017/c-te-divoire>.

- technologies have failed to cover all of Abidjan. Internet access is expected to improve thanks to a US\$130 million as of 2018 loan from the French Development Agency (Agence Française de Développement) to complete a 7,000 km fibre optic network.
16. Media in Côte d'Ivoire also suffer from other challenges, such as lack of professionalism, weak managerial capacity, weak training institutions, and low logistical capacity.
 17. The MFWA did not record any reports of internet surveillance or systematic suppression of online expression.
 18. The MFWA believes that some journalists practiced self-censorship.

FOLLOW UP ON ACCEPTED RECOMMENDATIONS FROM THE 2014 UPR

Government Has Not Fully Committed Itself to Enabling Press Freedom

19. Côte d'Ivoire accepted a recommendation to “adopt measures to ... grant the opposition representatives access to all State-controlled media, and promote work of all journalists” (second-cycle recommendation 127.146 by the Czech Republic).
20. Côte d'Ivoire took some contradictory steps concerning Press Law N° 2004-643 since its second UPR. In August 2016, the government introduced an amendment to Press Law N° 2004-643, aiming to strengthen press protections, including expanding the definition of journalists and lowering fines. But on 5 May 2017, the government introduced another bill to reverse the ban on imprisonment for press offenses in the original Press Law N° 2004-643, thereby criminalising speech and restricting press freedom. The vaguely worded bill proposed fines of up to 3 million West African CFA francs (US\$5,348 as of 23 July 2018) and up to 5 years of imprisonment.⁴ On 22 May 2017, the MFWA and its West African partners petitioned President Alassane Ouattara to refrain from increasing fines and criminalising press offenses. On 8 June 2017, the government withdrew the proposed bill, citing “the concerns of the people.” While the MFWA commends the government for positively responding to the petition, it remains concerned that the government lacks the necessary proactive respect for press freedom.

⁴ <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=category&docid=3ae6b5860&skip=0&category=LEGAL&type=LEGISLATION&coi=CIV&querysi=Criminal%20Code&searchin=fulltext&sort=date>.

Opposition Faced Challenges in Access to and Coverage by State-Controlled Media

21. While bias in news coverage is declining, there is still a strong element of polarisation, especially in print and television news during elections.⁵ Opposition politicians have complained of a lack of access to, as well as biased coverage in, the state broadcaster, Radiodiffusion et Television Ivoirienne (RTI), which owns RT1 and RT2. In September 2015, opposition politicians in Abidjan voiced these accusations in a peaceful protest against RTI. Notably, the government allowed the protest to take place and did not interfere.⁶

CNP Sanctions Appeared to Target Pro-Opposition Media

22. The CNP issued many suspensions against newspapers. While the MFWA believes the CNP can—and should—sanction media for unprofessionalism (a significant problem), 6 out of the 7 newspapers censored or fined during this time period were opposition papers. The MFWA condemns all bias and undue censorship that manifests in the decisions of regulatory bodies. The MFWA believes the CNP can reduce the likelihood of abuse with greater transparency in their decision-making process.
23. 4 February 2015: The CNP imposed a fine of 1,009,843 West African CFA francs (approximately US\$1,700 at that time) on La Refondation SA, publisher of the daily newspaper *Notre Voie*, and suspended its journalist Didier Dépry for one month for “violating the rule of balance in reportage.” In his 5 January 2015 article, Dépry alleged uneasiness in the army following the retirement of Soumaila Bakayoko, Chief of Defence of Republican Forces of Côte d’Ivoire. The CNP said Dépry “violated the rule of balance of information by publishing articles of an extremely serious nature likely to compromise the serenity of the army and damage the security of the country and the peace of the people.”
24. In the last quarter of 2015: The CNP suspended the following three newspapers for three editions: *Le Temps*, *Le Quotidien d’Abidjan*, and *Le Nouveau Courrier*. They were suspended for calling on voters to boycott the presidential elections.⁷
25. 7 December 2016: the CNP suspended three opposition newspapers. The CNP suspended *Aujourd’hui* and *LG Infos* for 7 publications and *La Voie Originale* for 27 publications. All suspensions have ended.
26. The CNP accused *Aujourd’hui* and *LG Infos*, which support former President Laurent Gbagbo, of publishing “false information aimed at manipulating one’s opinion,” because the paper referred to former First Lady Simone Gbagbo, her ex-aide de camp Séka Yapo Anselme, and former minister Hubert Oulaye as

⁵ <https://freedomhouse.org/report/freedom-press/2016/c-te-divoire>.

⁶ <https://freedomhouse.org/report/freedom-press/2016/c-te-divoire>.

⁷ <https://freedomhouse.org/report/freedom-press/2016/c-te-divoire>.

political prisoners. The three, plus Laurent Gbagbo, are in detention awaiting trial at the International Criminal Court. After its suspension ended on 17 December 2016, *LG Infos* recirculated that same publication, and the CNP suspended it for another 14 publications on 4 January 2017. The CNP lifted the suspension on 13 January 2017.

27. The CNP accused *La Voie Originale* of failing to conduct due diligence before publishing articles and statements from individuals claiming to be representatives of the opposition party, Front Populaire Ivoirien (FPI). However, the CNP's real issue seemed to be that the paper was recognising as leaders some members of FPI of whom the government disapproves.⁸ According to the CNP, these publications created confusion.

Positive Attempts to Promote Professional Journalism

28. 26 January 2018: A court in Abidjan imposed a fine of 10 million West African CFA francs (approximately US\$ 20,000 as of 26 January 2018) on Laurent Despas, owner of the news website Koaci.com, and sentenced Michel Gbagbo, former President Gbagbo's son, to six months of imprisonment. In May 2016, Despas had published a list of "political prisoners" (who are members of the opposition party) and 300 others who were arrested and "were missing" according to Michel Gbagbo. On October 20, 2017, the court found the statements to be false.⁹
29. Between January and June 2016: the CNP issued three suspensions for ethical breaches. In each instance, the MFWA's correspondents indicated that the media in question had indeed erred and that the sanctions would help ensure professionalism.
30. In its 28 February 2017 edition, *Abidjan Sports* reported that the Federation of Ivoirian Football (FIF) president Sidi Diallo demanded West African CFA francs 300 million (US\$535,618 as of 24 July 2018) for his campaign to be elected to the FIFA Executive Committee. On 14 March 2017, the CNP suspended the newspaper, claiming that the article "greatly compromises" the FIF president and could not be verified.
31. 3 May 2017: The CNP suspended newspaper *Le Patriote* for reporting election results ahead of the election council.

State and Non-State Actors Threatened Civil Society Spaces

32. Côte d'Ivoire accepted a recommendation to "step up its efforts to protect civil society space within the country" (second-cycle recommendation 127.150 by Italy).

⁸ <http://news.abidjan.net/h/605780.html>.

⁹ <https://www.hrw.org/world-report/2018/country-chapters/cote-divoire>.

33. Although the safety and freedom of civil society spaces have improved since the 2010–2011 post-election violence, the number and severity of incidents show that Côte d'Ivoire must increase efforts to protect freedom of expression.
34. From July 2014 through July 2018, the MFWA recorded 40 incidents of violations of freedom of expression and freedom of assembly, including physical attacks, arbitrary arrest and detention, and internet abuse. 20 incidents were perpetrated by state actors.

Physical Attacks

35. 29 January 2018: Security officers beat Olga Ottro, a reporter-photographer of *Le Nouveau Réveil*, while she was covering a case at the Plateau Courthouse in Abidjan. They subsequently detained her at the court.
36. 17 February 2018: The youth of the town of Boléquin assaulted Chris Paterné Assémian, a correspondent of Benin-based Sikka TV, accusing him of working with the state broadcaster RTI, which they said “never tells the truth.”
37. 22 March 2018: A group of police officers beat and humiliated Freelance journalist Daouda Coulibaly while he was covering a political protest in Abidjan. During the same demonstration, the police arrested and detained 18 people, mostly opposition figures.

Arbitrary Arrests and Detentions

38. In July 2015: The gendarmerie detained for questioning two editors of the pro-opposition *Aujourd'hui* in response to an article from the previous week accusing President Ouattara of embezzling development aid. One editor, Joseph Gnanhoua Titi, was arrested and charged with insulting the head of state. His illegal imprisonment violated the decriminalisation of libel enshrined in Press Law N° 2004-643. An investigative judge examining the case ordered his release after six days.
39. From 5 January 2017 to 12 February 2017: The gendarmerie arrested and detained six journalists and six RTI media technicians in two separate incidents. The journalists—Coulibaly Vamara and Hamadou Ziao of *L'Inter*; Bamba Franck Mamadou of *Notre Voie*; Gbané Yacouba and Ferdinand Bailly of *Le Temps*; and Jean Bédél Gnago, the correspondent of *Soir Info*—reported that the government had paid allowances demanded by mutinous soldiers in the town of Adiaké, a claim that the Attorney General judged to be an “attack on national security.” The journalists were arrested for publishing allegedly “false news” and inciting soldiers to mutiny. They were interrogated at the gendarmerie’s national headquarters before being detained at a gendarmerie camp on 12 February 2017. The journalists were released two days later.

40. 31 March 2017: An opposition supporter, Sam Mohammed, questioned President Ouattara's Ivorian nationality at a public rally. He was charged with slander and defamation and sentenced to six months of imprisonment.
41. 26 May 2017: A court sentenced three opposition politicians to 2.5 years of imprisonment for their role in a banned opposition rally in May 2015. While the Constitution guarantees freedom of assembly, other domestic laws require government approval of opposition parties' public rally requests. It is unclear how transparent or immune from bias the approval process is.¹⁰

Other Types of Violations

42. In the second quarter of 2017: Unidentified person(s) threatened a political journalist and blogger who had criticised Speaker of Parliament Soro Guillaume in his blog.
43. Also in the second quarter of 2017: The police threatened Alain Lobognonan, former Cabinet Minister and current Minister of Parliament, after he tweeted criticism of the government and ruling political party.
44. Also in the second quarter of 2017: Unidentified internet users harassed Nancy Ndri, a young woman leader who calls herself "Celibbattante" (meaning "single but able woman") online, for not conforming to gender norms.
45. In July 2016: Unidentified perpetrators looted the offices of *L'Éléphant Déchaîné*, a private investigative publication, taking the files regarding three investigations into state officials, the coffee and cocoa industries, and a bank.
46. Between January and June 2016: Unidentified perpetrator(s) broke into two journalists' homes. The two incidents appeared to be related to journalistic work, as most of their valuables were untouched and only their work was taken.¹¹

¹⁰ <https://www.hrw.org/world-report/2018/country-chapters/cote-divoire>.

¹¹ <https://freedomhouse.org/report/freedom-press/2016/c-te-divoire>.

MFWA'S RECOMMENDATIONS

TO THE GOVERNMENT OF CÔTE D'IVOIRE

To Law Enforcement

58. Uphold freedom of expression and freedom of assembly.
59. Sensitise security forces on protecting freedom of expression and on the role of journalists in promoting human rights, democracy, and development.
60. Develop and implement guidelines for security forces prohibiting violence against and arbitrary arrests of journalists and others exercising their free expression and assembly rights.
61. Promptly investigate violations of freedom of expression by both state and non-state actors.
62. Hold security forces accountable for abuses through internal mechanisms and external mechanisms, such as supporting criminal investigations into police brutality.

To the Judiciary

63. Hold prompt and fair trials of perpetrators of violations of freedom of expression in order to decrease impunity for crimes against journalists and other free expression actors.
64. Refrain from issuing excessive punitive fines.
65. Refrain from issuing disproportionate sentences for violations of freedom of assembly.

To Parliament

66. Refrain from passing bills that would restrict media freedom through imprisonment or punitive fines, among other things.
67. Repeal Articles 170–173 of the Penal Code, which are overly vague and serve as a basis to stifle expression.

To Public Authorities or Persons Providing Services for Public Authorities

68. Ensure the full implementation of the Freedom of Information Law, including through the public designation of an information officer to process requests for information.
69. Raise awareness of the right to information and how the public can access public information.

70. Sensitise information holders on their directive to provide access to public information.
71. Increase transparency in the decision-making process to approve opposition parties' public rally requests in order to reduce actual and/or perceived anti-opposition bias.

To Media Regulatory Bodies

72. Ensure that CNCA and CNP sanctions aim to promote professionalism and fairly punish wrongdoing—not to chill pro-opposition speech.
73. Increase transparency and accountability in the decision-making processes of the CNCA and CNP, particularly with respect to sanctions of media outlets, in order to reduce their actual and/or perceived pro-government bias.
74. Sanction the state-controlled media when it fails to grant access to pro-opposition media outlets.
75. Encourage the media to adhere to the MFWA's ethical and professional standards, noting that unprofessionalism will be sanctioned.
76. Encourage increased privatisation and diversification among media outlets, particularly television because it is dominated by the state-owned channel.

TO THE WORKING GROUP ON THE THIRD UPR OF COTÈ D'IVOIRE

77. Make more recommendations related to the protection and promotion of free expression rights.